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ABSTRACT

Findings of a study that investigated cases of fraud and misconduct in the New York City school custodial system are presented in this document. Custodial services are provided through a "quasi-independent" contractor, or an "indirect system." Although custodians are public employees, they have great independence and lack supervision and accountability. The investigations are based on complainants' allegations and information from confidential sources. Following the introduction, section 2 describes the processes for checking attendance, evaluating, and supervising custodians. Four cases in which custodians were paid for work they did not perform are described; these custodians engaged in lucrative second careers and recreational pursuits on the job. Section 3 is based on a survey of 64 school custodial staff members; it found 10 custodial employees with criminal histories. Ways in which custodians hire employees with criminal backgrounds are described. The fourth section presents cases of payroll fraud, and the fifth section describes ways in which the antinepotism rule was circumnavigated. Time-clock abuse as standard operating procedure is the subject of section 6. Section 7 describes how the "compliance" auditing system presents opportunities for misuse of budgets and acquisitions to hide theft. The practice of stealing of user fees is highlighted in section 8. A conclusion is that the system facilitated wrongdoing through its lack of controls and accountability. Recommendations are made to: (1) terminate the employment of seven custodians and one custodial employee; (2) give principals control over custodians; (3) conduct background personnel checks; (4) establish rules for proper record keeping and conduct routine fraud audits; and (5) set clear antinepotism standards. (LMI)

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CITY OF NEW YORK
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT

ED STANCIK
Special Commissioner

A SYSTEM LIKE NO OTHER: FRAUD AND MISCONDUCT BY NEW YORK CITY SCHOOL CUSTODIANS

November, 1992

by: **SUZAN R. FLAMM,** Deputy Commissioner
REGINA A. LOUGHRAN, Special Counsel
LEAH KEITH, Assistant District Attorney, New York County
District Attorney's Office

EA 024 540

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The cases examined in this report were investigated by:

Michael Downes
Thomas Fennell
Matthew Fleming
Elizabeth Leong
Michael McGarvey
Larson Phipps
Lucy Ruta
James Skennion
Harris Swaby
Donald Schwally
Robert Werner

Under the supervision of:

Ernest Mahone, Chief Investigator
Michael Gallaro, Deputy Chief Investigator
Anthony Jacaruso, Deputy Chief Investigator

and Group Leaders:

Sheila Boyle
Thomas Comiskey
George Johansen
Santiago Martinez

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A SYSTEM LIKE NO OTHER: FRAUD AND MISCONDUCT BY NEW YORK CITY SCHOOL CUSTODIANS

I. INTRODUCTION: "QUASI-INDEPENDENT CONTRACTORS" OR "QUASI- LICENSE TO STEAL 1

A. The School Custodial System 1

B. The Investigations And The Results 5

II. CUSTODIANS WHO DON'T WORK AND HOW THEY GET AWAY WITH IT 6

A. How Custodians Account For Their Time 6

B. How Custodians Are Rated 9

C. Who Supervises Custodians 10

D. William Ryan: Missing The Good Old Days When You Didn't Even Have To Come In On Payday 11

E. Albert Friedland: "The Flying Custodian" Or, How To Fly A Plane And "Work" As A New York City School Custodian At The Same Time 16

F. Edward Koester: Managing A Real Estate Law Practice And A Full Time Custodian's Position At The Same Time 23

G. Charles Haughey III: Using Marijuana And Guns At School 30

III. CRIMINALS ON THE CUSTODIAN'S STAFF: HOW CUSTODIANS HIRE EMPLOYEES WITH CRIMINAL HISTORIES 42

A. The Survey 44

B. Travis Walker and Joseph Stiff, Jr. 49

IV. THE CUSTODIAN'S PAYROLL 55

A. Former Custodian Paul Safina Tells Us How The Board Helped Pay To Renovate His Home And Pay Back A Personal Loan 55

B. Edward Butler: Breaking Up With the Secretary But Keeping Her On The Payroll 65

C. Michael Figluizzi: Disguising Payroll Abuse By Keeping No Records At All -- Or Making Them Up As You Go Along 67

D. Detecting Fraud In A Custodian's Payroll 73

V. HOW TO CIRCUMVENT THE ANTI-NEPOTISM RULES: YOU HIRE MY WIFE, I'LL HIRE YOURS 75

A. Paul Safina 77

B. Ronald Lenahan 79

C. Howard Frank 81

D. Making the Anti-Nepotism Rule Work 83

VI. TIME CLOCK ABUSE AS STANDARD OPERATING PROCEDURE 84

A. The Custodial Staff of William Ryan 85

B. The Custodial Staff of Paul Safina 88

VII. THE CUSTODIAN'S PURCHASES 90

A. Custodial Supplies And Equipment 90

B. Samuel Lambert, Jr.: Seizing The Obvious Opportunity 93

VIII. STEALING USER FEES 95

IX. CONCLUSION AND RECOMMENDATIONS 98

A. Recommendations Concerning Individuals 100

B. Recommendations Concerning The Custodial System . . 100

A SYSTEM LIKE NO OTHER: FRAUD AND MISCONDUCT BY NEW YORK CITY SCHOOL CUSTODIANS

I. INTRODUCTION: "QUASI-INDEPENDENT CONTRACTORS" OR "QUASI-LICENSE TO STEAL"

A. The School Custodial System

The New York City Board of Education (here "Board") is virtually unique in how it provides custodial services to the approximately 1,000 buildings it operates. In what is called the "quasi-independent contractor" or "indirect" system, school custodians[1] are treated in many ways as independent contractors by the Board. Thus, they are given a budget by the Board, ranging anywhere from $80,000 to $1,200,000, to provide custodial services to the school or facility to which they are assigned. With that money, which the custodian is free to deposit in his[2] own personal bank account should he choose, the custodian hires a staff and buys whatever supplies he needs to provide these services. The custodian's own salary is what is left in his budget after he has paid his staff and purchased supplies, up to a pre-established maximum amount for each custodian. The balance of the custodian's budget, if there is one, must be returned to the Board.

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[1] Many of the individuals discussed in this report have the exact title of "custodian engineer." For brevity's sake, the shorter term "custodian" is used to include custodians and custodian engineers.

[2] For the purposes of this report, custodians will be referred to by the gender specific pronoun "he." Currently, all but approximately two New York City school custodians are male.

Although a custodian is a public employee, he is allowed to operate at a level of independence that sets him apart from any other New York City public servant. The individuals the custodian hires are the custodian's, and not the Board's, employees. They are selected by, paid by, and supervised by the custodian. Moreover, unlike other Board employees who must follow a complex set of rules and regulations in purchasing supplies, custodians may make purchases free of those regulations.

Custodians are not supervised by, and are not under the direction of, anyone at the school or facility where they work, but are instead subject to only occasional on-site supervision by overburdened "plant managers," who must each supervise all the custodians in a given community school district. Thus, should a school principal find that a school restroom is dirty, she[3] can ask, but cannot direct, the custodian to have it cleaned. Her only recourse should he decline is to complain to the plant manager.

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[3] Principals in this report are referred to by the gender specific pronoun "she." Although there are both male and female principals, we refer to them as "she" for the sake of uniformity.

Since a custodian is accountable to no one at his building, should he simply fail to show up for work on a regular basis, or engage in other, private pursuits while at the school, his non-performance might well go undetected. This is especially tempting when the custodian has an experienced staff willing to "cover" for the boss. Even if the principal is well aware of the custodian's absence or shoddy performance, she is powerless to effect any change or improvement. It is the plant manager that rates the custodian. That rating, based on the custodian's compliance with his labor contract rather than the principal's satisfaction with his performance, along with the custodian's seniority, determines whether or not he advances to a higher paying custodial position as a reward for good performance, or suffers some penalty for poor performance. Although the Board requires the principal's written evaluation of the custodian, that evaluation plays no part in whether or not a custodian advances to a more lucrative position. Thus, it is possible for a custodian to transfer to a better position and to receive high ratings even though a principal is dissatisfied with the custodian's performance.

In contrast to the virtual lack of control the Board has over its custodians, custodians have near total control over exactly what tasks they must accomplish at the school. Those tasks are set forth, for the most part, in the custodian's labor contract and are so strictly construed that a custodian is not required to simply keep a school clean and in good repair but, instead, is required to perform certain types of tasks in a certain way or a particular number of times a year. Thus, again, should that same principal want to have a clean lunchroom floor in her school every day of the week, she would be unhappy to learn that the custodian's labor contract only requires that the lunchroom floor be mopped once a week.

By design, the indirect system allows custodians to operate virtually free of any real controls or accountability, and with the same freedom over public funds that an independent contractor exercises over his or her own money. Custodians are not, however, independent contractors. Independent contractors lose their contracts if their customers are not satisfied. Custodians, on the other hand, are civil service employees of the Board, with the attendant employment protection. Unlike independent contractors, custodians are represented by a union, Local 891 of the International Union of Operating Engineers. They cannot lose their jobs except under the most extraordinary circumstances. Unlike true independent contractors, they have no economic motivation to use their own or their employees' labor efficiently or to get the most for their dollars in purchasing supplies. Under the current system, a custodian's sole economic motivation is to protect the maximum salary he can earn by not spending so much of his budget on his staff and supplies that he uses up any part of that maximum salary. Since his contract requires only that he accomplish a particular number of tasks in a given period, and not that he generally keep his assigned school clean and in good repair, protecting his maximum salary is almost always possible.

Custodians operate as independent contractors only in the sense that they have remarkable freedom in how they disburse money and in that they can spend that money free of any real or effective controls. Unlike independent contractors, however, who must account for every dollar wasted when they bid on and perform a job, custodians operate with unequalled liberty in the use of public funds.

In short, custodians have all the benefits, but none of the risks, of true independent contractors. The results of this system are predictable, and are set forth in the investigations discussed in this report.

B. The Investigations And The Results

The investigations described below are based on allegations made to this office by complainants and on information developed and relayed to us by confidential informants. Our sources were varied, but included custodians and their employees. The investigations, which for the most part centered on individual custodians, revealed the obvious: the very lack of accountability and control that is the hallmark of New York City's school custodian system makes close scrutiny and effective investigation of custodians enormously difficult. That same lack of control over custodians, coupled with the lack of any obligation on the part of custodians to meet high standards in keeping their buildings clean and in good working order, results in opportunities for theft, corruption and poor performance that may be unequalled in public service.

The cases that follow illustrate how some custodians have realized these opportunities. Some took advantage of their independence and non-accountability to engage in lucrative second careers while ostensibly working for the Board. Others, perhaps less ambitious, simply engaged in recreational pursuits on Board time. Some custodians saw possibilities in the freedom they enjoyed to successfully manipulate their payroll and acquisitions budgets to hide theft. The fundamental weaknesses in the current custodial system allow for other abuses as well, including those pertaining to the Board's anti-nepotism policy and its efforts to prevent the employment of individuals who have committed serious crimes. It is our conclusion that the current system is sorely lacking in even minimal safeguards to prevent or deter the sort of wrongdoing described here. We therefore recommend fundamental changes.

II. CUSTODIANS WHO DON'T WORK AND HOW THEY GET AWAY WITH IT

A. How Custodians Account For Their Time

Custodians are required by their labor contract to be in attendance at their buildings from 8:00 a.m. to 5:00 p.m., with an hour off for lunch each day. In practice, many custodians have arranged to modify this schedule somewhat by arriving and leaving either an hour earlier or an hour later. The reasons for the custodian's required attendance at the school are fairly obvious given the fact that the smooth operation of the facility is his responsibility. Besides the custodian's continuing duties to clean, heat and make minor repairs in the building, he must be available at all times to respond to emergencies in any of the mechanical systems. This is considered by the Board to be a major responsibility and custodians are thus generously compensated, making up to $80,000 a year depending on their years of employment and the size of the buildings they maintain. Many custodians, in fact, make more money than the principals of the schools to which they are assigned.

Should the custodian wish to take a vacation or sick day or leave his building for any reason during the course of his work day, the Board requires that he first obtain permission by telephone from a supervisor.[4] He is also required to inform the principal that he will be absent from the school, and he must designate an assistant as his alternate during his absence.

Custodians are supervised by plant managers, who in turn report to borough plant managers. These supervisors are headquartered in borough offices. There are three such offices: one in Queens, one in Brooklyn, and one in the Bronx. Each borough plant manager maintains a log in his borough office for the purpose of recording custodians' absences from their buildings.

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[4] Custodians earn unlimited paid sick leave and from 10 to 27 days of vacation every year depending on their years of employment.

Typically, besides notations in the log of sick or vacation time, the entries are either "HW" indicating that the custodian is leaving the school to buy hardware or other custodial supplies, "PB" indicating that the custodian is off on personal business, or "VL" for "vacancy list," indicating that the custodian was visiting another Board building while considering whether to apply for a transfer to that building. In practice, the custodian does not actually ask permission from his supervisor before leaving, but simply tells a secretary at the borough office that he will be absent from his building and she makes the appropriate entries.

At the end of each month the custodian submits to his plant manager a form called a P.O. 150 on which he records his vacation days and sick days. Presumably, the supervisor's telephone log should match the P.O. 150 forms for a given period. As we often noted discrepancies between the two documents during the course of our investigations, we can only conclude that they are not compared by plant managers on any sort of regular basis.

The Board attempts to monitor the attendance and performance of custodians by asking its plant managers to make two unannounced visits to Board buildings each month. If a custodian is caught away from his facility without having forewarned his supervisor of his expected absence, his service rating can be lowered. Those all-important ratings, along with seniority, determine who is assigned to the bigger buildings, and thus who gets the bigger salaries. As will be described more fully below, these "unannounced" visits often do not occur, especially if a given custodian is not the subject of any complaints made to the borough office.

B. How Custodians Are Rated

The most common way a custodian can increase his income is to be transferred to a larger, and therefore higher paying, Board facility. Like many other aspects of the custodian's job, the method by which a custodian is rated for possible transfer to another Board building is governed by his labor contract. Three times a year plant managers prepare service ratings of each of the custodians whom they supervise. Custodians are rated in ten different categories, and assigned number scores ranging from "Under 55," corresponding to "Unsatisfactory" to "95 - 100," corresponding to "Outstanding." These service ratings are then factored into a three-part formula that determines a custodian's transfer rating. The three parts are: the service rating, the borough plant manager's evaluation, and the custodian's seniority. Seniority counts the most, making up about 50% of the total score.

What is obviously missing from the custodian's transfer rating is any input from a principal, most often the actual user of the service the custodian provides. Principals are required by the Board to complete evaluations of custodians in which they rate the custodian as either "Satisfactory" or "Unsatisfactory" in five categories. The purpose of those evaluations escapes us since they are not included where it counts, in the transfer rating. One of the ten service rating categories in the plant manager's evaluation, discussed above, does include "cooperation with principal." But since that same category also includes the custodian's cooperation with the teaching staff and with other bureaus, his administrative ability and his report and record keeping skills, a custodian could get a high mark in this category even if the principal found him to be totally uncooperative.

C. Who Supervises Custodians

Before 1988 the individuals supervising custodians, who were then known as "district supervisors," were themselves former custodians who had been promoted to a supervisory position. Custodians were represented then as now for collective bargaining purposes by Local 891 of the International Union of Operating Engineers. Those promoted to the supervisory position of district supervisor remained in that same Local even though they were now employed to supervise custodians, their fellow union members. The Board found this to be totally unsatisfactory, primarily because these supervisors, who had themselves often spent years as custodians, had friendships and loyalties that interfered with effective supervision.

In 1988 the system was changed to allow the Board to hire supervisors, now known as "plant managers," from outside the ranks of New York City school custodians and to require that they not be represented by Local 891. The Board took advantage of that change to replace the district supervisors with 30 plant managers, 18 of whom were never school custodians and 12 of whom did have experience as custodians with New York City schools. None of these 30 plant managers belongs to Local 891.

This new system has been challenged by the union. If that challenge is successful, the Board will be forced to revert to the prior ineffective method of supervision.

D. William Ryan: Missing The Good Old Days When You Didn't Even Have To Come In On Payday

William Ryan has been a Board custodian since 1969 and has been assigned to the 49 Flatbush Avenue Extension, a Board facility located in Brooklyn, since 1988. This building houses, among other things, all the plant managers and borough plant managers who supervise custodians in Brooklyn and Staten Island. On February 4, 1992 a confidential informant brought to the attention of this office allegations of serious misconduct on the part of the custodian and his staff at the building. Our investigation quickly revealed that Ryan, who earned about $83,000 in 1990 and at least $70,487 in 1991,[5] has the job that everyone wants: part time work for full time pay.

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[5] Ryan's base salary in both 1990 and 1991 was $70,487. He earned an additional $12,533 in 1990 because he was assigned the "temporary care" of another Board building for a portion of that year, allowing him to earn a second, full, salary during the time he had the temporary care assignment. He also had a temporary care assignment in 1991. The amount Ryan earned for that assignment, however, is not yet entered in the Board's payroll system.

Ryan was surveilled on an intermittent basis from March to August, 1992. He was observed for full or almost full work days on 16 different dates during that period. On only two of those days did it appear that Ryan was at 49 Flatbush Avenue, or otherwise engaged in custodian-related duties, for the entire work day. On four of those days he was not at his building at all, although his P.O. 150 form indicates that he was at work. On seven of those days he was observed working only a portion of the day, leaving from approximately one to six hours early, although his P.O. 150 forms indicate that he was at work the entire day. On two of those days his P.O. 150 forms indicate that he was sick, when Ryan was observed to be actively engaged in several activities, none of which had anything to do with his custodial duties.

The following is a sampling of some of our observations: on Wednesday, April 1st, Ryan did not appear at 49 Flatbush Avenue at any time during the work day. A review of the borough office log for that day revealed that Ryan called to say he was taking a vacation day. He apparently thought better of that by the time he filled out his P.O. 150 form, however, because the entries on that document indicate that he was present at work on the 1st.

On Thursday, May 7th, Ryan came to work at about 7:45 a.m. He left the building approximately two hours later with two men, one of whom was his employee, William Best. They returned about 45 minutes later. Fifteen minutes after that, at about 11:00 a.m., Ryan left again, and did not return to the building. He went to Nassau County where he spent the remainder of the day on a 34-foot, 1992 boat which was docked behind a home in Long Beach and which is registered to Ryan at a Florida address. Ryan did not call his plant manager before either excursion on May 7th, nor did he enter any part of the day as vacation or sick leave on his P.O. 150.

The next day, Friday, May 8th, Ryan arrived for work at 7:35 a.m. About three hours later he left with another man and drove to a men's clothing store in Manhattan. They returned to 49 Flatbush Avenue and then, at about 12:20 p.m., Ryan drove out to his boat in Long Beach where he spent the remainder of the day. The log shows that Ryan called his borough office on that day to say that he would be out buying hardware from 1:00 to 4:00 p.m. His P.O. 150 does not show any sick or vacation leave on that day.

On Thursday, May 21st, a day that Ryan had to pay his own employees, he arrived for work at about 8:46 a.m. This was also a day that custodians, including Ryan, had to pick up their own bi-weekly budget checks. After arriving at work, Ryan made two short trips, returning to the building each time. At about 11:45 a.m. he again left 49 Flatbush Avenue, met a woman, and stopped at a location in Brooklyn to do what appeared to be a personal errand. He next stopped at a restaurant located on a pier in Brooklyn where he met another custodian, Robert Cori, at the bar.

Cori is a full time custodian at a Board athletic field in Brooklyn. He also works part time for Ryan in the evenings. They engaged in a conversation over drinks, a portion of which was overheard by an investigator. Apparently referring to the low level of energy he expends on behalf of the Board, Ryan said, "Yeah, all I do is sign checks." Cori responded, in substance, "I remember the old days when we didn't even come in [on payday], we picked up our [budget] checks at the bar." Ryan left the restaurant at about 2:00 p.m. and spent the rest of the day on his boat, apparently making repairs.[6] He did not call his plant manager before any of his absences from 49 Flatbush Avenue that day, nor did he indicate on his P.O. 150 form that he was taking any vacation or sick leave.

Ryan called in sick the next day, May 22nd. On that date we observed Ryan doing personal errands from about 8:00 to 9:00 a.m. He was at his boat by 9:30 a.m. which was observed sailing from the dock at 3:00 p.m. Ryan's entry on his P.O. 150 form for that day indicates that he was out sick.

Ryan's employees confirmed that Ryan was often away from 49 Flatbush Avenue. When Ryan was observed at the building he was occasionally seen handling paperwork, which the employees thought to be related to the payroll, but they could not otherwise recall many instances of him working. They did notice that Ryan spent a lot of time visiting his favored employees and the plant managers, who had their offices on the second floor of 49

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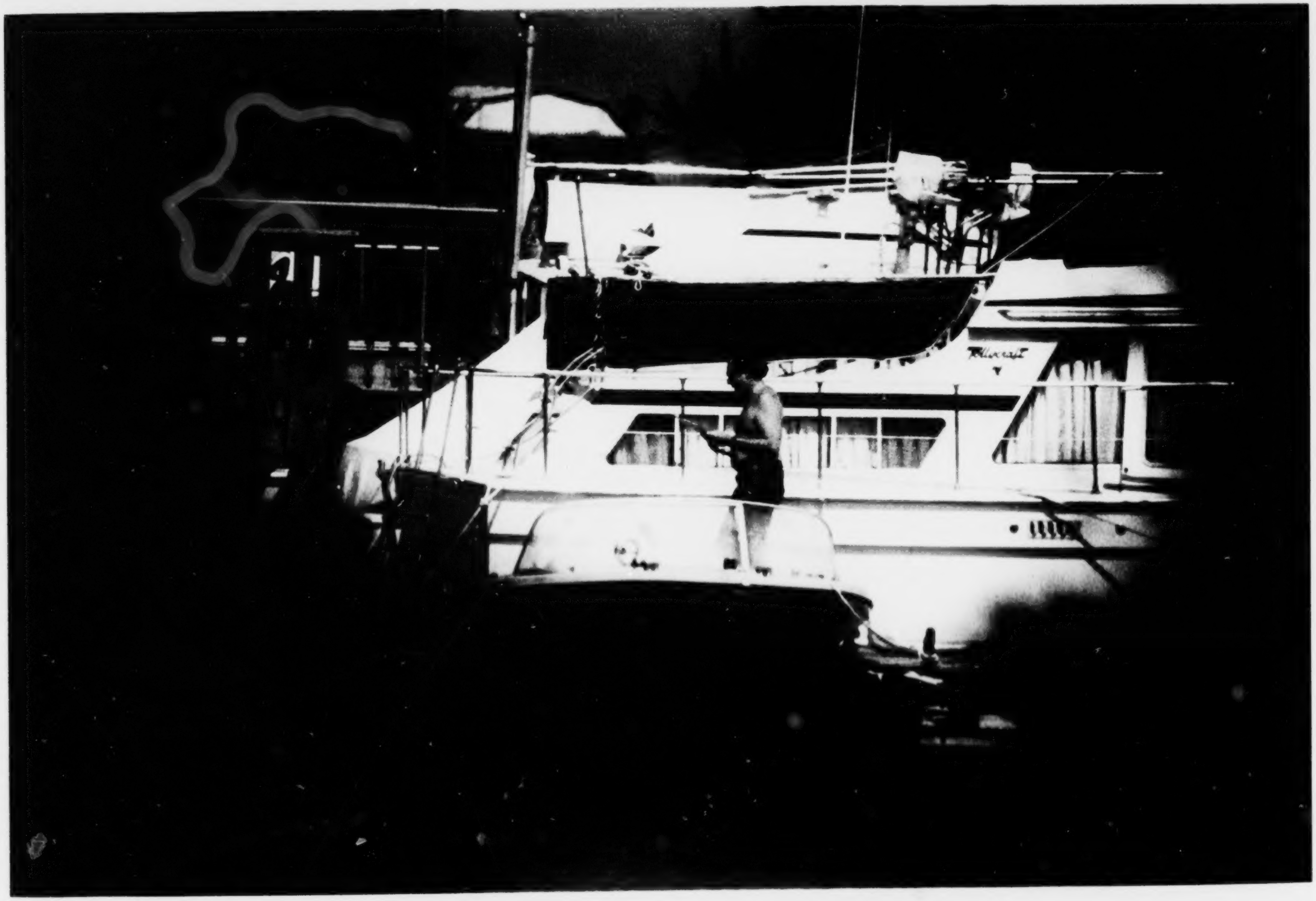
[6] See the photograph at the end of this section.

Flatbush Avenue. The actual job of assigning work to the custodial staff, and of supervising that work, was accomplished almost exclusively by the man Ryan designated as his foreman, Bill Best.

Best has been well compensated by Ryan for acting in his place so that Ryan can pursue other, private, interests. Generally, custodial employees covet overtime hours to boost their incomes. Remarkably, Best worked almost 1,000 of those hours between June, 1991 and June, 1992, earning a total of over $57,000 in that year, about $15,000 more than the next highest paid employee on Ryan's staff. During this period Best worked as much as 65 hours in a week. Thus, Ryan exercised the freedom granted him by the indirect system to buy, at the Board's expense, his own replacement. Best, of course, would have no cause to complain given the fact that he directly benefitted, in the form of extra dollars, from his boss' absence.

Ryan, like all custodians, was rated three times a year by his plant manager, whose office is located right in 49 Flatbush Avenue. That plant manager either never observed what to us appeared obvious, that Ryan was frequently away from his building, or chose to ignore that fact because of his relationship with Ryan. One would expect that Ryan's chronic absences would affect his service ratings, but he has received only "excellent" scores since December, 1990. As discussed more fully below, this in itself raises serious questions about the current rating system.



After stopping at a bar, custodian William Ryan spent the afternoon of May 21, 1992 on his boat on Long Beach, Long Island. According to official records, the custodian was working at the school that day.

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E. Albert Friedland: "The Flying Custodian" Or, How To Fly A Plane And "Work" As A New York City School Custodian At The Same Time

During the course of an investigation into allegations brought to our attention by the New York State Police that retired school custodian Albert Friedland may have sexually abused New York City schoolchildren in his Putnam County home,[7] a confidential source advised this office that Friedland was paid by a private corporation to fly its corporate plane at the same time that the Board paid him to provide custodial services at P371 in Brooklyn, a special education school housed in two separate buildings.[8] Friedland began working as a school custodian in 1969. He was assigned to P371 from 1987 to 1991, when he retired from the Board.

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[7] Friedland was arrested on May 8, 1992 for endangering the welfare of a child and sexual abuse in the third degree. Those charges, which are pending in Putnam County, do not involve New York City School children.

[8] The fact that Friedland and Edward Koester, another custodian who is described later in this report, did not disclose their outside employment to the Board is not in itself a violation. At one time the Board did attempt to monitor non-Board employment by issuing a "Plant Operation Circular" to all its custodians. That circular, dated September 26, 1983 states, among other things, that "School Custodians...are reminded that they must inform the Deputy Director for Plant Operation, in writing, of any outside employment. The letter must list the employer and the days and hours of work." About two weeks later, on October 7, the Board retreated from this position in another "Plant Operation Circular" which states that the directive quoted above was amended to require custodians to alert their superiors only to "additional employment in Board of Education facilities." Of course, the fact that custodians do not have to report outside employment to the Board does not relieve them of their obligation to be at their assigned buildings during their work day.

Our investigation into that allegation revealed that Friedland was paid by Ben Franklin Properties, a Florida-based company, to co-pilot its corporate aircraft on a regular basis. We compared the flight logs maintained by that company for its plane with the plant manager's telephone log entries and Friedland's own entries on his P.O. 150 forms for the period from January, 1987 to December, 1990. That comparison showed that on at least 60 different days Friedland was either recorded as working at his school or out sick, when he was, in fact, 20,000 feet above ground, operating an airplane.

Friedland also worked as a co-pilot for Henri I. Siegel Co., a New York organization. A review of that company's flight logs for the period from September to December, 1990 showed again that Friedland lied to the Board about his whereabouts, in this case on six different occasions. As Friedland's Board salary during the period from January, 1987 to December, 1990 ranged from approximately $39,000 to $55,000, the amount in wages he stole from the Board was about $11,000.

Friedland's staff confirmed that he was chronically absent from the school. Timothy Adrian was employed as Friedland's cleaner and boiler operator at P371. He stated that Friedland generally appeared at the school one or two days a week. There were occasions when Friedland was not seen at the school for as long as a month. Friedland explained to his staff that he flew a real estate tycoon throughout the country, but that he could be paged anywhere on his "nationwide" beeper. Undoubtedly, it would have been of great comfort to the parents of the students at P371 in Brooklyn to know that if the boiler failed or the bathroom flooded, Friedland could be "beeped" in the cockpit of his Lear jet somewhere between New York and Florida.

Despite Friedland's full time job as a custodian and his dual employment as a pilot, he apparently still had time on his hands. According to Adrian, Friedland also operated a pay telephone company from his custodian's office at the school.[9] At Friedland's direction, Adrian repaired some of the phones belonging to the company on Board time.

Carol Murphy Salvadore was hired by Friedland in May, 1989 as his secretary at P371. She recalled that shortly before the 1990 military activity in the Persian Gulf, Friedland told her that another pilot would be serving in the armed forces and that Friedland would thus be piloting full time. A short time later he began appearing at the school only a day or a day and a half a week. In fact, we learned from the Henri I. Siegel Co. that on August 25th, 1990, one of their pilots was called into active duty by the United States Air Force as a result of the Middle East crisis.

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[9] Allegations concerning Friedland's operation of Westshore Enterprises, a pay telephone company that Friedland partially owned, were investigated by the Board's Inspector General's Office in 1989 through 1990. That investigation resulted in findings that on three dates in 1990 Friedland conducted business for Westshore on Board time. As a result, the Deputy Director of the Board's Department of Plant Operations wrote a letter to Friedland, which became part of his personnel file, advising him to refrain from using his office phone for anything other than Board business. No further action was taken.

Friedland instructed Salvadore that if his plant manager visited in his absence, she was to tell him that Friedland was out sick, out on personal time, or at the hardware store. Friedland also told Salvadore that she should not allow the plant manager access to Friedland's custodial records. At Friedland's direction, Salvadore falsely completed and signed Friedland's P.O. 150 forms, regularly indicating on the forms that he was present at the school when he was not. Salvadore also stated that she observed custodial employees repairing pay phones for Friedland during their shifts at the school.

Apparently Friedland's practice of regularly disappearing from his assigned school preceded his transfer to P371. Jacques Guignard, a cleaner at Sterling High School in Brooklyn, worked for Friedland at Sterling from approximately 1983 to 1987. Guignard stated that Friedland was absent more than he was present at the high school and that Friedland told him that he was piloting a plane for a "rich big shot" when he was away from the school.

Given Friedland's other interests, one might expect that he was sufficiently distracted from his custodial duties to result in poor service ratings. On the contrary, those ratings for his last year of custodial service, 1990, were either satisfactory or excellent in every category except for one. He was rated "fair" in January, 1991 in the category that includes "cooperation with principal."

The principal with whom Friedland's cooperation was supposedly "fair" was Octavia LeGrande. She uses other, less benign, words to describe the level of his cooperation with her and members of her staff. LeGrande was at P371 when Friedland was assigned to that school. She recalled that his first official act was to move the custodian's office from the building in which the principal's office was located and in which the custodian's office had traditionally been located, to the adjacent building. That building, which is also part of the school, is used primarily for special education administration. Friedland told LeGrande at that time that Denise was "his secretary and that she takes care of all issues -- talk to her."

LeGrande and her Assistant Principal, Gary Hecht, quickly learned that regardless of where Friedland's office was, he was rarely in it. During "good weeks" Friedland appeared twice a week, although he did not stay long at the school. Often, he disappeared as much as two to three weeks at a time. Apparently not at all worried that his dual employment might cost him his Board job, Friedland told LeGrande that he was a commercial pilot and that he made frequent trips to Las Vegas and Chicago. He also told LeGrande that he operated a private pay phone business.

The school, according to both LeGrande and Hecht, was filthy during Friedland's tenure as custodian. Windows that were broken went unrepaired. Burned out light bulbs were not replaced. Broken toilet stalls were left in disrepair. Since LeGrande and

Hecht were responsible for a student population of severely emotionally disturbed young adults, they were both alarmed that Friedland did not repair broken locks. Thus, they were unable to keep their students out of certain parts of the building that were dangerous when unattended, like the basement and the auditorium.

In LeGrande's words, Friedland and his staff "had a reign of terror" at P371. In particular, she was referring to Friedland's boiler operator, Isaac Singletary, who described himself on an employment application as being 6 feet, 2 inches tall and weighing 427 pounds. To LeGrande he appeared to be 6 feet, 8 inches tall and 500 pounds.[10] Singletary was verbally abusive to LeGrande and swore at her frequently, even in front of guests to the school. He regularly blocked her path when he saw her walking through a hallway in the school. She and Hecht also recalled a serious physical confrontation at the school between Singletary and another custodial employee. LeGrande told us that she understood Singletary to be Friedland's bodyguard, and she was terrified of him.

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[10] It is hard to know Singletary's exact dimensions. A criminal history sheet dated July 15, 1991 describes Singletary as being 5 feet, 10 inches tall and weighing 375 pounds. The arrest resulting in this sheet is discussed more fully below. An investigator with our office estimated his height to be 5 feet, 11 inches and his weight to be 350 pounds, not including the motorcycle chain he was wearing around his neck at the time. Charles O'Donnell took over as custodian at P371 after Friedland left, and thus inherited Singletary as his employee. In his view Singletary weighed over 425 pounds, and, in any case, was too big to enter a boiler to clean or repair it.

LeGrande also felt powerless to do anything about it. Singletary and Friedland appeared to have total control over the situation at the school and she felt herself to have little. Singletary even slept at the school, had female visitors there and kept a dog as a pet in the basement where he made his home. She recalled instances when she complained to Friedland or Singletary about the condition of the school and found later that someone had "fixed" her by turning off the school's heat and hot water.

Despite LeGrande's serious complaints, she stopped short of rating Friedland "unsatisfactory" on the principal's evaluation forms. According to LeGrande, she was too afraid of both Friedland and Singletary to commit her complaints to paper. She thus rated him "satisfactory." LeGrande did complain to the plant manager about Singletary and Friedland, but nothing changed until Friedland resigned in January, 1991 and Singletary resigned, while under investigation by this office, in May, 1991. That investigation arose out of allegations that Singletary was responsible for a series of burglaries that occurred at the school.

During the course of our inquiry into those charges, which were not substantiated, we did learn that Singletary had a criminal history consisting of three separate convictions: one in 1978 for disorderly conduct following an arrest for grand larceny in the third degree and related crimes, one in 1984 for unlawful possession of marijuana following an arrest for criminal possession of marijuana, and one later that year for attempted criminal possession of a weapon following an arrest for criminal possession of a weapon. This alarming criminal record was unknown to the Board, and to LeGrande, because Friedland never required that Singletary be fingerprinted by the Board when Friedland hired him in April, 1988.[11]

F. Edward Koester: Managing A Real Estate Law Practice And A Full Time Custodian's Position At The Same Time

While investigating larceny allegations at P.S. 87 in the Bronx, investigators with this office sought the assistance of the school custodian, Ed Koester, who had been assigned to that school since he began as a custodian in April, 1985. Koester, however, was not present at the school during the course of four separate visits made by our investigators. On one of those occasions the principal paged Koester. He returned the page, informing our investigator that he could not be at the school to assist in the investigation because he had been "called to court as a witness." A clerical worker in the principal's office told our investigators that Koester was a real estate attorney. We were informed by the Appellate Division of the New York State Supreme Court that Koester was admitted to practice law in 1986.

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[11] Later in this report we discuss many weaknesses and lapses in the current system of checking custodial workers for criminal records by requiring that they be fingerprinted.

31

Surveillance, which we conducted on a periodic basis between May and September, 1992, revealed that Koester was, in fact, actively engaged in a law practice during the course of his work day at the school. That finding was corroborated by a review of the telephone records listing calls made from the phone in Koester's office at the school and by interviews with his associates.

While watching Koester, we observed that he had a regular routine of leaving the school, apparently to attend to his practice. For example, on June 8th he left P.S. 87 at 11:25 a.m. and went to the law office of Joseph Alessandro, located near the school, on Hammersley Avenue in the Bronx. While there, Koester directed a New York Telephone repairman into the office. He returned to the school at 1:30 p.m. He did not call his borough office before leaving, nor did he record any time off on his P.O. 150 form for that day. A photo of Koester taken on this date accompanies this section.

On June 17th Koester left the school at 11:30 a.m. and again visited the law office on Hammersley Avenue. He left about a half hour later with several folders and envelopes and proceeded to the Bronx Municipal Hospital. He returned to the school at 1:50 p.m. Again, he did not record any time off either with his borough office or on his P.O. 150 form for that day.

On June 23rd Koester made two visits to the same law office, once between 10:20 and 10:30 a.m. and again between about 1:00 and 2:00 p.m. On the second occasion he was seen entering the office with a man we later identified to be Arthur Frooks, who appeared to have been waiting for him in front of the building. There was no record of any time away from the school on this date.

According to the employee compensation forms[12] that Koester submitted to his supervisor, Frooks is one of his custodial employees. He is listed as having worked on a part time basis for Koester between May, 1991 and March, 1992. Frooks stated that his work for Koester consisted of cleaning, painting and running errands. Koester also instructed Frooks to go to the Bronx County Clerk's Office to check on the section, lot, and block numbers of various properties. Frooks would be paid between $10 and $20 by Koester for this service. He was sometimes paid by check and sometimes by cash.[13]

On July 27th Koester left the school at 9:40 a.m. He met a woman named Juliana John on East 223rd street in the Bronx and they drove together to a law office located on East Tremont Avenue, also in the Bronx. Ms. John told our investigators that Koester has been her attorney for the past year and a half. He has helped her sell a house, buy another, and then sell that one as well. Ms. John stated that she made business calls to Koester at the office number he had given to her. That number, which she provided for us, is for his office phone at the school.

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[12] These documents, known as P.O. 1 forms, will be discussed in greater detail below.

[13] A review of Frooks' time cards indicates that he was not "on the clock" on June 23rd when he was seen at the law office.

According to Ms. John, on the morning of the 27th, when investigators observed Koester with her at the law office on East Tremont Avenue, Ms. John was closing on the sale of the second house and Koester attended the closing as her attorney. Koester returned to the school around 12:00 noon and remained there until 4:35 p.m. At 5:00 p.m. he entered the Alessandro law office. According to the borough log book, Koester was out buying hardware between 9:30 and 11:30 a.m. and again between 2:30 and 3:30 p.m. His P.O. 150 form indicates that he took no time off on that day.

On the surveillance days that followed, Koester was again seen at the Hammersley Avenue law office. On August 17th he made a short visit to the office in the morning. At 2:00 p.m. he left the school, picked up a man at an auto service company, and was last seen that day driving in Yonkers. He did not return to the school. There was no record of his taking any time off on that date.

On August 20th Koester left the school at about 9:10 a.m., went to the New York State Supreme Court in Bronx County and returned to the school at 10:45 a.m. The entry in the borough log for that day is "hardware" between 9:00 and 10:00 a.m.

On September 25th Koester was seen leaving the school and placing a large sign in the trunk of his car with the help of a custodial worker. At about 10:30 a.m. Koester drove off in that car. Another man left the school with Koester at the same time, but drove off in a different car. They both went to the law office where they removed the sign from the trunk and secured it on two poles in front of the building. The sign reads: "Caribbean Estates, Sales, Rentals and Mortgages." Koester returned to the school at 1:00 p.m. The borough log book indicates that Koester did call on that date and an entry of "paint" was made for the period between 11:00 a.m. and 12:00 noon.

Our observations suggest that Koester was busy with his law practice even while at P.S. 87. This is confirmed by our review of the phone records listing calls made from his P.S. 87 office phone and by our own phone calls to that number. The phone records, which show only outgoing calls, reveal that between February 7, 1992 and June 6, 1992, Koester's office phone was used to place repeated calls to 58 different attorneys, real estate entities and mortgage companies. A total of more than 26 hours of Board time was used to make these calls. We have no way of knowing the amount of time Koester spent on incoming business calls.

An investigator with this office, posing as a home buyer, called Koester's P.S. 87 office phone on September 25th to find out whether Koester could help her find a house in the Bronx. A woman who identified herself as Koester's secretary, Christina, told our investigator that Koester was out but that she was sure he could help with a home purchase. In subsequent telephone conversations with Koester on that, and other days, Koester confirmed that he could help our investigator with the purchase of a home. He also told her that he has been a part time real estate agent for the past 15 years.

We later learned that Koester's secretary Christina's last name is Paone. Interestingly, there is no employee with that name on Koester's custodial payroll. We have learned from our own observations and from members of Paone's family that Koester nonetheless employs her as his secretary for his real estate dealings, and she works for him in that capacity at the school and at the Hammersley Avenue law office. Paone declined to speak with our investigators other than to state, "I'm not getting into trouble. It's my boss who's getting into trouble, because he was the one who put me in the school."

Like Ryan and Friedland, one would never know by reviewing Koester's service ratings that he had things on his mind other than the boiler and lunchroom floor. Since the beginning of 1990, Koester, who currently makes $52,700 a year, has been rated excellent in every category.

Ryan, Friedland and Koester had no on-site supervision, and they used that freedom to pursue their own interests. They had no "boss" to keep them at their job, and no economic motivation to work even without a "boss" around. Perhaps if their money was at risk or if there was any risk of "losing the contract" if they did not perform well, they would have stayed close to their buildings to see that the custodial service they were hired to provide was actually provided. We saw nothing in the current custodial system in the way of reflective reality-based ratings or close supervision to prevent or even deter any custodian from acting as did those discussed in this report.

On June 8, 1992, custodian Edward Koester, while supposedly at work at P.S. 87X, left the school in his jeep, which he acquired through a Board of Education subsidy. The custodian drove to this law office where, on Board of Education time, he helped unload boxes into the building.

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G. Charles Haughey III: Using Marijuana And Guns At School

The scenario could be described as a school principal's worst nightmare: There are more than 1,100 schoolchildren in the building attending classes. A toilet breaks, triggering a massive flow of water that floods several classrooms on the second and third floors. Water is running down the steps, flooding a portion of the lunchroom. Water is seeping through the light fixtures and dripping onto the floor of the kindergarten classroom. A portion of the third floor is ankle deep in water. The custodian appears and informs the principal that she should "look for the kid in the wet clothes," blaming the flood on a student. Then the custodian appears to vanish; he cannot be located. A member of his staff says that the custodian has turned off the water. The principal does not know whether any toilets in the building will now flush. She is frantic at the thought of a school full of children with no running water.

Scene II: Later the same day. The custodian is still nowhere in sight. He has apparently forgotten to tell his evening staff member that a concert is to take place at the school at 7:00 p.m. The auditorium seats are not set up. The auditorium has not been swept. The lunchroom has not been washed or swept, and the men's and women's rooms have not been opened.

The principal who described these events to investigators from this office is Dr. Rahla Gold, who was principal at P.S. 105

in the Bronx until her retirement last year. The custodian she described is Charles Haughey III, who was new to P.S. 105 at that time. Haughey's disappearance on the day of the flood was prophetic; absenteeism apparently became his habit. As it turns out, absenteeism was the least objectionable of his habits. Our investigation has found evidence to corroborate charges that on occasion Haughey bought marijuana on school time, smoked it in the school basement, and conducted target practice in the basement with loaded guns that Haughey brought to P.S. 105 on numerous occasions.

Haughey's Criminal Record

Charles Haughey III has a criminal record dating back to 1979, when he pleaded guilty to charges that he twice sold marijuana to an undercover police officer. He was sentenced to thirty days in jail, which he served on weekends, a $250 fine, and five years probation. During the five years of probation, Haughey was again arrested four different times: in 1980, 1981, 1982 and 1983. The 1980 arrest resulted in a conviction on charges of criminal trespass. The 1981 arrest was subsequently dismissed. The 1982 arrest resulted in Haughey pleading guilty to a charge of disorderly conduct. And in 1983, Haughey was arrested and convicted of a drunk driving offense. Also in 1983 his probation in connection with the marijuana sale was revoked and he was sentenced to three months in jail, which he served on weekends.

Three years later, in February 1986, Haughey began working as the school custodian at P.S. 109 in the Bronx. This was not a surprising career choice, given the fact that Haughey's grandfather once worked as a school custodian, and his father still does. Haughey's father, Charles Haughey II, has also served as a high-ranking officer of the school custodians' union.

When Haughey III started work as a custodian, he was fingerprinted and his criminal history was made known to the Board. A hearing was held by the Board's Personnel Review Panel, giving Haughey an opportunity to explain his criminal record. With respect to his convictions for selling marijuana, Haughey claimed that he had been set up by a family friend. He told the panel that he had mentioned to a friend of his brother's that he (Haughey III) worked in an area where there was drug traffic. According to Haughey, the friend asked him to buy marijuana. Haughey agreed, not knowing that the friend was a police informant. According to Haughey, the friend/informant then brought narcotics agents to Haughey's house, where Haughey was arrested. The panel accepted this explanation and found Haughey fit for the position of school custodian.

Had the Personnel Review Panel checked, they would have learned that Haughey misstated the facts resulting in his two convictions. His version makes it sound as though he sold a small quantity of marijuana to a friend who later betrayed him. According to records in Rockland County, however, Haughey sold more than a small amount of marijuana. In fact, he made two

42

sales to an undercover narcotics agent -- one sale of two ounces and the other sale involving five ounces of marijuana. Five ounces is enough marijuana to fill approximately one hundred marijuana cigarettes. Thus, law enforcement officers in Rockland County suspected that Haughey was a dealer, rather than a friend selling a small quantity to his buddy.

Haughey's involvement with marijuana apparently continued after he began work as a custodian. On a number of occasions, he and a couple of his favored employees smoked marijuana on school time, according to Elija Marvjonovic, who was a cleaner on Haughey's staff. Haughey usually smoked the drug on the landing of a stairwell leading to a sub-basement in the building, Marvjonovic said, where it was easy to conceal his activities. According to Marvjonovic, Haughey's usual companions in this activity were his girlfriend, Gloria Sushko, who was on his payroll as his secretary, and his right-hand man, Billy Mulzet.

Marvjonovic said he first learned about Haughey's use of marijuana sometime in the spring of 1991, when he drove Haughey to a storefront on Fulton Avenue in the South Bronx that was located between two schools. There Haughey left the car and returned a short time later displaying a bag of marijuana. According to Marvjonovic, Haughey then smoked a marijuana cigarette in the car. All of this took place on school time, Marvjonovic said. Similarly, in June 1991, according to Marvjonovic, Haughey twice obtained marijuana on school time, and brought it back to P.S. 105 where Haughey smoked it in the sub-basement.

This office has corroborated Marvjonovic's account in several ways. First, in November, 1991 investigators from this office conducted a search of the basement rooms at P.S. 105 where Marvjonovic claims Haughey kept marijuana and smoked it while on duty. The investigators found a pipe similar to the type commonly used to smoke marijuana and they found a plastic bag containing a small quantity of a substance which chemical analysis later revealed to be marijuana.

Additional evidence supporting Marvjonovic's descriptions of Haughey comes from surveillance of Haughey performed by this office. On November 21, 1991, investigators observed Haughey travel -- on school time -- to a storefront on Fulton Avenue between two schools in the South Bronx, a location that matched Marvjonovic's description. There investigators observed Haughey making what appeared to be a drug buy. An investigator who pretended to be using a pay phone next to the shop overheard Haughey tell the shop clerk that he (Haughey) had five or six plants, both male and female, that he was growing upstate. In describing his plants as male and female, Haughey was probably referring to marijuana plants; the female is the variety that contains the chemical known as THC, which gives marijuana its potency. When he said his plants were upstate, Haughey probably meant that he was growing these plants on property in Herkimer County that is owned by Gloria Sushko, Haughey's girlfriend. Sushko later told investigators that she and Haughey occasionally travel upstate to visit the property she owns there.

The investigator attempting to observe Haughey's actions while he was inside the store could not see what he was doing because the interior was dimly lit. She was therefore unable to see an exchange of money for a package. After the mention of the male and female plants, Haughey thanked the clerk and exited the store.

Again on December 5, 1991 and on February 27, 1992, investigators observed Haughey enter and exit the same storefront location in the South Bronx, where he remained a very short time, just as he did on the two previous occasions. These two transactions, as well as the first one observed on November 21, 1991, were all conducted on school time. Haughey had not signed out or called anyone to advise them that he was leaving his post at P.S. 105.

This office reported to the New York City Police Department our observations regarding apparent sales of marijuana taking place in the Fulton Avenue storefront that is sandwiched between two schools. On October 30, 1992, an undercover police officer entered the storefront and purchased marijuana. With that, police moved in and raided the location. They arrested four persons who were charged with selling marijuana, and they recovered 47 bags of a substance that the police have tested and have found to be marijuana. It seems quite clear, then, that Haughey was not going to this storefront in search of hardware or supplies for his school. Instead, he was there, on school time, purchasing marijuana, the only thing offered for sale at that location.

Another employee of Haughey's, Carl Douglas, said that he too suspected Haughey of using marijuana on school property. Douglas is a cleaner at P.S. 105 who has worked at the school for 25 years. According to Douglas, he and Haughey did not like one another, and race contributed to the friction that existed between them (Haughey is white, Douglas is black). In fact, Haughey twice fired Douglas, who appealed his dismissal both times and was given his job back.

According to Douglas, he observed the butts of what appeared to be marijuana cigarettes in a basement room at P.S. 105, and figured them to be Haughey's. While he says he was never a participant in the use of the drug with Haughey, he detected an odor he recognized as the smell of burning marijuana. Douglas further says that sometime near the end of 1991, around Christmas time, he saw Gloria Sushko holding a bag of what appeared to be marijuana while at work on school property. Sushko, the upstate property owner mentioned above, is not only Haughey's girlfriend, but was also on Haughey's payroll as his secretary from approximately 1987 until 1992. She left Haughey's staff after he transferred to Board facility 641 in Manhattan, which houses three separate school programs. Instead of working for Haughey III, Sushko now works for his father, the custodian at the brand new Peter Stuyvesant High School in Manhattan. The common practice of custodians putting wives or girlfriends on their payroll is discussed later in this report.

Firearms On School Property

Carl Douglas also claims that he heard the sound of shots being fired from one of the basement rooms at P.S. 105. But Douglas did not observe the shooter or the gun. It now appears likely that the shooter was Haughey. According to Elija Marvjonovic, he observed Haughey on approximately twenty to thirty occasions handling firearms on school property during school hours when the building was filled with children. Marvjonovic claims that Haughey conducted target practice in the sub-basement of the school and sometimes kept firearms in the custodian's office, a room that is near the school lunchroom.

Again, we found evidence to substantiate Marvjonovic's allegations. In the sub-basement of P.S. 105, investigators recovered a number of paper bull's-eye targets, many of them pierced by bullet holes. We also found a large box with a target attached and a piece of wood with a target attached. In addition, we recovered more than two hundred spent rounds of ammunition, consisting of shotgun shells and rifle shells. Marvjonovic had stated that he observed Haughey on a number of occasions handling a rifle and observed him firing a rifle in the sub-basement of the building.

The two custodians who replaced Haughey after he left P.S. 105, Richard Bernnardo, the temporary care custodian, and Michael Delacava, the permanent replacement, both deny responsibility for the shells, the targets, and the beer bottles that are pictured in the photographs accompanying this section. Instead, both have named Haughey as the person responsible for the items depicted in the photographs. Furthermore, Bernnardo and Delacava both say given the filth and deplorable conditions that they found at the school following Haughey's departure, they had little time to concern themselves with items left by Haughey in the sub-basement.

Poor performance on Haughey's part would seem entirely predictable given what we observed when we performed surveillance of his activities on a number of school days. We observed a pattern of Haughey leaving his job, apparently to tend to personal matters on school time. His visits to a South Bronx storefront where he apparently purchased marijuana were described earlier in this section. On several other occasions we observed either Haughey himself or his car at the home in New Jersey that he shares with Gloria Sushko. On none of these occasions did he tell anyone that he was taking a few hours of personal leave and going home. Instead, his records reflect that he was at school, on the job. Our observations prove otherwise.

Teachers And Children Suffer The Consequences

At the start of the school year in September, 1989, 52 teachers signed a letter of angry protest directed at Haughey and his staff at P.S. 105. They complained that Haughey's staff had stripped their bulletin boards of all their instructional materials when the classrooms were cleaned during the summer vacation. What outraged the teachers is the fact that, rather than putting to one side the materials, Haughey's staff simply threw them all away, leaving the classrooms bare. As one teacher put it in her letter of protest, she had spent many hours hand-making her own scratch-and-sniff vowel charts with toys on each to help illustrate each vowel sound. "I am extremely upset," she wrote, "at the loss of these items which took many hours to create." What she did not say is that the same cleaners also failed to put back all the furniture that they had stacked in the middle of each room while cleaning the floors. As a result, one teacher fractured a bone in her foot, and two others were also injured while trying to take down piles of furniture left in each classroom.

A kindergarten teacher who asked for extra packages of paper towels so that the five-year-olds could clean up spills was told that Haughey had no money in his budget to cover her request. Similarly, an art teacher met with the same response from Haughey: there was no money for paper towels to assist the students in cleaning up.

As a result of Haughey's failure to maintain the building and his refusal to cooperate with the principal and staff, Dr. Gold rated Haughey as "unsatisfactory." After years of having poor service and having her ratings ignored by Haughey's superiors, Dr. Gold gave Haughey an occasional "satisfactory." Nancy Correa rated Haughey "satisfactory," but with explanations.

Those explanations make it clear that, in fact, his performance was "unsatisfactory." Ms. Correa told this office that she rated Haughey in this manner because she feared he would be vindictive towards the children and staff. It is interesting to note that in spite of bitter complaints from teachers and principals alike that Haughey was unresponsive and ineffective, he managed to get fairly good service ratings during the latter part of his tenure at P.S. 105.[14]

This alone raises troublesome questions about the current rating system. Do good service ratings mean that the custodian does a good job of maintaining his building? If the satisfactory or excellent level of maintenance at these buildings can be achieved without the full time participation of the custodian, why does the Board pay these custodians as much as $80,000 a year to be there full time? Or, is the problem that the ratings do not bear any relation to reality? That is, since those rating the custodial service are generally not on-site users of the service are their ratings inflated and inaccurate?

The cases discussed above suggest at least part of the answer: plant manager service ratings can be so wildly inconsistent with the comments of the principal that it is hard to believe that the two are remarking on the same person or building. In our view, the fact that a custodian can be assigned to a school in which the principal is frustrated and dissatisfied with the service the custodian provides, yet the custodian can still receive high enough service ratings to keep his job or even earn a transfer to a more desirable school, is evidence that the service and transfer rating system is seriously flawed and in need of drastic change.

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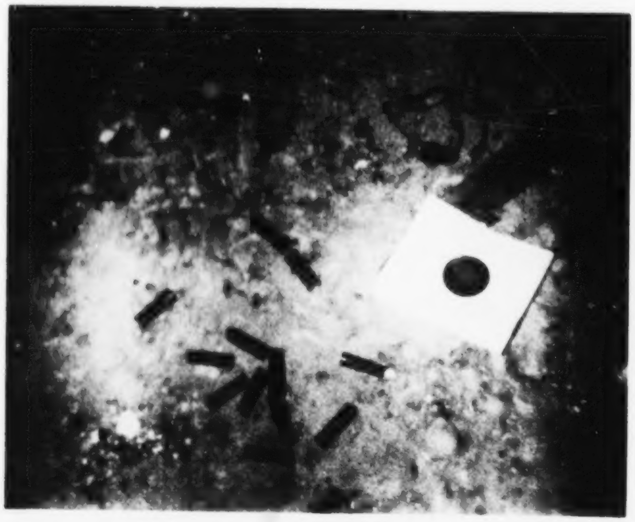
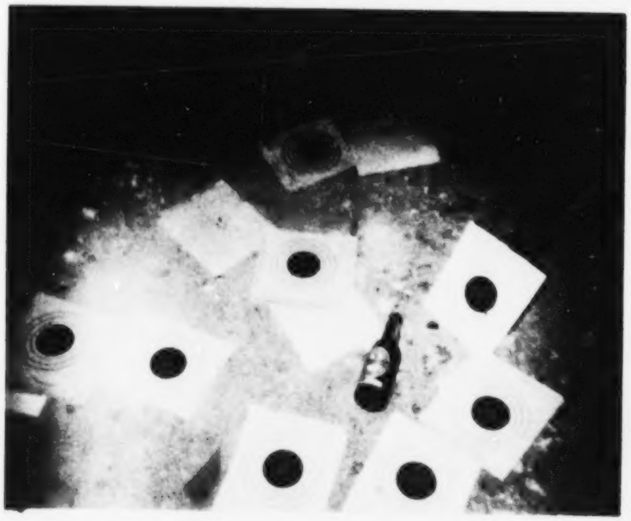
[14] We should mention that complaints regarding Haughey were not universal. Instead, there are some letters in his personnel file from school personnel thanking Haughey for a job well done.

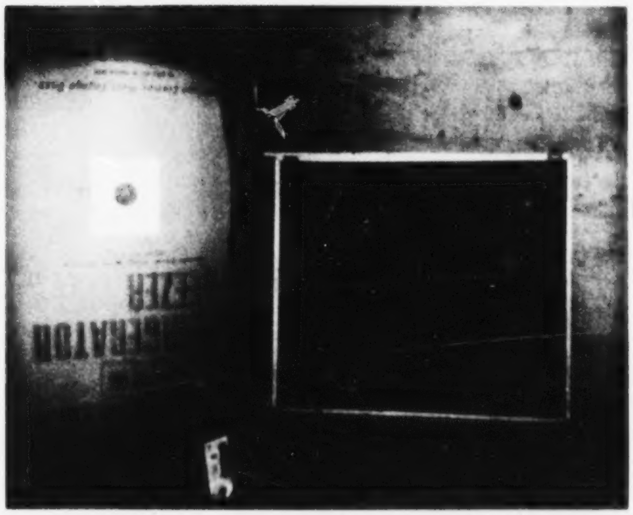


Shell casings and a target on the floor in the sub-basement of P.S. 105, where custodian Charles Haughey practiced target shooting during school hours. (Photo taken on 10/28/92)



Used targets and an empty beer bottle scattered on the floor of the sub-basement.

(Photo taken on 10/28/92)



Two bullet-punctured target backings in Haughey's "practice range."

(Photo taken on 10/28/92)

A marijuana pipe found in the supply room in the basement of P.S. 105. Marijuana residue was located on a table in the same room. (Photo taken on 11/14/91)

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III. CRIMINALS ON THE CUSTODIAN'S STAFF: HOW CUSTODIANS HIRE EMPLOYEES WITH CRIMINAL HISTORIES

The fact that Haughey was hired in spite of his criminal record may seen shocking. In fact, many employees on custodians' staffs have criminal records of which the Board is unaware. That is because the Board's rule requiring that Board and custodial employees be checked for criminal histories is treated with indifference by most custodians.

All persons newly hired by the Board must be fingerprinted before they are permitted to begin working. Using these fingerprints, the Board conducts a criminal history check, using the state's central registry which contains the fingerprints of all persons who have been arrested in the state of New York. In this way, the Board can eliminate persons whose criminal history might make them unfit to work in close proximity to children or in positions of public trust.

This fingerprint rule applies to all Board employees, including custodians. Custodial helpers, however, are not Board employees, as was explained at the beginning of this report. Rather, they are employees of the custodian. So a similar rule requiring fingerprinting was enacted to cover all custodial helpers.[15] Our investigation has shown that this rule is routinely violated; either custodial employees are permitted to start work without being printed, or they simply never submit to the printing process at all. As a result, the requisite background check for some custodial employees comes late, or not at all.

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[15] The rule states: "Custodial helpers and assistants shall upon regular appointment or engagement by the custodian be sent to the Bureau Main Office for fingerprinting and routine police check." Rules and Regulations For The Custodial Force In The Public Schools of the City of New York, 1977 edition, Section 2.2.1(d).

This office attempted to survey 64 school custodial staffs for compliance with the fingerprint rule. When it came to personnel files, we found a paper trail so broken and bewildering that it was impossible to determine whether all custodial employees had been printed as required. In fact, it was impossible to even identify all members of the respective school custodial staffs, much less determine whether all such persons had undergone the requisite background check. We were able to identify 41 employees who had not yet been fingerprinted, and a history check revealed that ten of these 41 individuals have criminal records comprised of crimes ranging from robbery to the illegal sale of drugs.

Our survey results are described in the paragraphs below. This section also describes the case of two custodial helpers, Travis Walker and Joseph Stiff, Jr., who were caught trafficking firearms in an operation based in the two respective schools where they worked. As explained below, both Walker and Stiff had been fingerprinted. However, they exemplify two other serious flaws in the system for tracking suitability of school custodial employees: Walker managed to work in spite of his criminal history revealed by fingerprinting, and Stiff developed a criminal record after being fingerprinted.

A. The Survey

This office set out to survey 64 school custodial staffs. Forty-nine of these were randomly selected, and the remaining 15 were added to the list because those schools had each been the subject of some sort of complaint made to this office. Finding a complete listing of custodial employees for each school and an employment file for each was impossible. While some custodians had submitted the required employee records to the Board, others had not. Some of those who had not submitted records simply never did the requisite record-keeping.

As best we could determine, the 64 chosen schools had a combined total of 467 custodial employees. The files for 150 of these employees were incomplete, with no evidence of any criminal history check having ever been conducted. In response to our investigation, school custodians began to assemble records demonstrating that members of their staffs had in fact been printed as required. Also, there was a rush to have employees fingerprinted as soon as our investigation became known. Even so, fingerprints were missing for 67 employees, many of whom we could not even identify by a full name.

Of those 67, we were able to piece together biographical information for 41, and we ran a criminal history check on each of the 41. Ten of these individuals were found to have a criminal history. Their histories are briefly summarized below:

1. Frankie Blackman, a/k/a Shamel Blackman, worked as a part time cleaner at P.S. 149 in Queens. When Blackman entered the system in September, 1991 he was not fingerprinted. A check of his history would have revealed that he has a 1991 conviction for attempted robbery in the second degree and was on probation for that crime at the time he entered the system.

2. John Quinn, a cleaner at P.S. 217 in Queens, entered the system in July, 1991 and was never fingerprinted. Our check revealed that Quinn has two drug convictions: one in 1982 for drug possession, and a 1989 conviction for the attempted sale of a controlled substance.

3. Robert Hernandez, a/k/a David Hernandez and Robert Diaz, entered the system in 1990 as a cleaner working at P.S. 25 in the Bronx. Hernandez was not fingerprinted until earlier this year when custodians came under pressure, as a result of our investigation, to have all staff members printed. His record shows that Hernandez has four drug convictions spanning 1985 to 1989, the most serious of which resulted in a sentence of two to four years in prison. In addition, Hernandez has a 1981 conviction for attempted robbery in the second degree.

4. Nasser Qatabi, a/k/a Quatabi and Qtabi, is a cleaner at a Board facility located at 131 Livingston Street in Brooklyn. He entered the system in April, 1991, but was not fingerprinted until June of this year when our investigation became known. Qatabi's record shows two convictions: a 1989 conviction for disorderly conduct and a 1984 conviction for criminal possession

of a weapon.

5. Eric Eady has worked at various schools as a temporary cleaner, most recently at P.S. 127 in Queens. He was never fingerprinted. Our check shows that there is an outstanding warrant for his arrest in connection with a charge of theft of services for failure to pay his subway fare. This office has attempted to arrange for Eady to appear in court so that the warrant for his arrest can be vacated and he can answer the theft of service charge.

6. Linton Morgan, a cleaner at P.S. 232 in Queens, entered the system in 1991 and was never fingerprinted. Morgan has a 1987 conviction for criminal possession of stolen property, a 1985 conviction for attempted reckless endangerment, and two convictions for disorderly conduct.

7. Anibal Ponce, a part time painter, handyman, and casual cleaner at I.S. 183 in the Bronx, entered the system in 1991 and was never fingerprinted. He has a 1981 conviction for attempted burglary in the second degree, for which he was sentenced to a year in jail.

8. Ira Meadow, a cleaner at P.S. 25 in the Bronx, entered the system in December, 1990 but was not fingerprinted until 1992. Meadow has a 1977 robbery conviction.

Two other custodial employees that we checked had either an arrest or conviction for drunk driving offenses. In addition, the criminal records of other custodial employees came to light as the result of the rash of fingerprinting that took place beginning in June of this year in response to our investigation. The more serious crimes committed by some of these individuals range from weapons possession to attempted arson. It should also be noted that some of these individuals lied on their employment applications when asked if they had ever been convicted of any crime.

In view of the results of our survey, it seems reasonable to conclude that, at any given time, a number of custodial employees are working on-site in the schools without undergoing the requisite background check.

Those employees who have been fingerprinted, and who are found to have criminal histories, may nonetheless be "cleared" for work in a school. The review process by which these employees are either cleared for employment or rejected is itself different from the review process imposed on applicants for Board employment who are found to have criminal histories. The criminal history of a Board applicant will be investigated by the Board's Office of Personnel Investigation. In some cases a Personnel Review Panel, consisting of three Board employees, is convened to consider whether or not to hire the applicant. Unless a "special clearance" has been issued by the Board all this occurs before the applicant actually begins employment.

In the case of custodial employees, the Office of Personnel Investigation determines the eligibility for employment of those individuals with convictions that are remote in time or petty in nature. The records of employees who have more serious convictions, such as for violent crimes, crimes involving sexual misconduct or children, are referred to the Deputy Director of the Board's Bureau of Plant Operation, J. Kirby Coughlin. In Coughlin's own words he then "plays Solomon" and, without the benefit of a panel or of investigative resources, decides whether the employee can keep his job.

Although Coughlin does note the original arrest charges, and the charges of which the employee is ultimately convicted, he generally does not contact the prosecuting agency to hear what they have to say about the incident underlying the arrest. Since both Board and custodial employees have equal access to children, it is hard to understand why custodial employees are treated differently when their criminal pasts are involved.

Those who do undergo screening and are found unfit after being fingerprinted are supposed to be kept out of the school system by having their social security numbers added to a central roster that is called the "invalid list." This list is kept by the Board's Office of Appeals and Review. It includes not only the social security numbers of those who have flunked the criminal history check, but also the numbers of employees who have been terminated for poor job performance. Custodians are given periodic reports announcing the most recent social security numbers added to the invalid list, and they are supposed to check the list before hiring a new employee. However, not all custodians comply with this requirement, as demonstrated by Paul Safina, a former custodian whose crimes will be described later in this report. Safina admits that he never once checked the list in all his 27 years in the school system. Equally troubling is the fact that methods for compiling the invalid list appear to be flawed, as will be demonstrated by the case of Travis Walker.

B. Travis Walker and Joseph Stiff, Jr.

On May 28, 1992, police arrested Travis Walker and Joseph Stiff, Jr. and charged them both with trafficking in firearms. Joseph Stiff, Jr. was a cleaner working at Prospect Heights High School at the time, and a search of his personal locker at the school revealed one live round of ammunition and a counterfeit police badge. Walker, meanwhile, had been working as a temporary cleaner at I.S. 61 in Brooklyn and, according to the police, was Stiff's partner in the guns-for-sale operation that the two ran, in part, out of their respective schools. The two dealt in high powered semi-automatic weapons, with Stiff arranging many of the sales, while Walker took care of delivering the guns. They completed six sales of weapons to an undercover police officer during the period of March, April, and May, 1992, with one of the sales taking place at night in a classroom at Prospect Heights High School. Another took place in the late afternoon in front of I.S. 61. Walker was arrested as the sixth sale was transacted outside a restaurant near I.S. 61. Police moved in and arrested Walker and his wife after she passed a package of guns to the undercover officer. According to the officer, Walker had previously stated, in substance, that he

(Walker) was available if the undercover needed assistance in performing a contract killing.

Walker and Stiff had both been fingerprinted at or near the time they began working in the schools. Stiff was printed when he first joined a custodial staff in 1977, and Walker was printed two months after beginning work in December, 1989. At the time he was printed, Stiff's record showed a conviction on a charge of disorderly conduct, and there is no indication in his personnel file that anyone took notice of this. Two years later, in 1979, Stiff was again arrested, this time on charges of petit larceny and criminal possession of stolen property. This case was adjourned in contemplation of dismissal, meaning that if he stayed out of trouble, the charge would automatically be dismissed. There is no indication that Stiff reported this arrest to anyone at the Board. Then, in 1991, Stiff was arrested at Prospect Heights High School. He was taken into custody there, along with a student, after an altercation involving graffiti drawn on a wall that Stiff had cleaned. Once again, Stiff's case was adjourned in contemplation of dismissal, as was the student's. Stiff's employment file does not indicate that anyone reviewed his fitness for employment in the school system at the time. Finally, in 1992, Stiff was again arrested, this time in connection with the weapons trafficking described above. This fourth arrest cost Stiff his job.

Travis Walker, in contrast to Stiff, had several convictions on his record when he began work as a cleaner. He had just completed a prison term for one robbery and one attempted robbery at the time he went to work at I.S. 61 in December, 1989. He lied when asked if he had ever been convicted of a crime. When his criminal record was revealed by the fingerprint check, an administrative hearing was scheduled for Walker to answer charges that he was unfit for employment in the schools. Walker resigned before the hearing could ever take place. His social security number should have been added to the invalid list, but it was not.

In the meantime, Walker was again arrested, this time in connection with a stolen credit card. This arrest took place in June, 1990. While the credit card case was pending, Walker returned to I.S. 61 -- even though he had resigned over a year earlier -- and pleaded with the custodian there, Gerard Benson, to hire him again. Walker told Benson that he had a new baby and needed money. Benson knew about Walker's criminal record, but hired him anyway. This time Walker did not submit to fingerprinting. Two months later, Benson became sick and died.

Benson's replacement, a temporary custodian, William Walsh, reported to the school during Easter recess and found it filthy. Temporary custodian Walsh asked Lloyd Walker, the boiler operator (or "fireman") at the school, to organize a cleanup. Lloyd Walker, in response, told Walsh that he would need extra people, and he asked if his son Travis could remain at the school. Walsh agreed to this request, telling Lloyd Walker to do whatever it took to get the job done. Meanwhile, at this same time, April, 1992, Travis Walker was dealing in firearms, as described in the paragraphs above. William Walsh now admits that he did not check the invalid list. But even if he had, Walsh would not have found Travis Walker's social security number; we checked the list on two different occasions and found that his number was missing. No one at the Board could explain to us why Travis Walker was never added to the invalid list.

It is impossible to know how many individuals there are who, like Travis Walker, should be on the invalid list, but whose names were never added. Walker's case vividly demonstrates the need for an accurate list. The case of Joseph Stiff, Jr., on the other hand, demonstrates another weakness in the system: the failure of employees to report arrests that occur subsequent to their fingerprinting and background checks. As of April, 1992, a new rule mandates that any employee of the Board must report the fact that he or she has been arrested and charged with a crime. There is, however, no similar rule for the employees of school custodians, and therefore it is possible for a custodial employee to be convicted of a serious crime without anyone at the Board knowing about it.

Custodians and their employees are quick to point out that the fingerprinting process is a lengthy one. The employee is sometimes forced to wait two months or longer to get the results of a criminal history check. This is because the agency that processes all such requests, the New York State Division of Criminal Justice Services, is deluged with such requests and processes them on a priority basis. Law enforcement agencies, such as the New York City Police Department, get top priority. The Board, however, is further down on the list. Once the results are in, Board employees process them, sending them from one division to another, which adds to the delay. Consequently, many custodians take the position that temporary employees, such as cleaners hired during holiday periods when the schools are supposed to get a thorough cleaning, need not be printed.

Jose Rosa, a/k/a Joey Rosa and Jose Winfield, is one example of a temporary cleaner whose fingerprint results came too late. Rosa was fingerprinted on July 6, 1992, after he started a summer cleaning job at Auxiliary Services High School in Manhattan. The results of his background check were made available in early August, a month after he was fingerprinted. However, the Board took another month to process the results. Consequently, Rosa's record was not made known to the appropriate Board official until September 9, 1992. By then, Rosa had worked the entire summer and left the school. His record revealed two drug convictions, the latest, for criminal sale of a controlled substance, occurring in April, 1992. It appears from his record that Rosa had just completed his jail term and was still on probation at the time he started work at Auxiliary Services High School.

Custodians not only balk at requiring temporary workers to be fingerprinted, they also protest the cost of fingerprinting, claiming it is unfair to make a new employee pay the $73 fee for fingerprinting until the employee has worked a few weeks, and it is clear that he or she is suitable for the job. However, the same consideration is not extended to any other school employees. All Board employees, from teachers and counselors in the schools to office workers and typists at Board headquarters, are required to be fingerprinted at their own expense, with the results known, prior to beginning work. According to the rule, if you have not been checked, you do not get paid.

The custodians, on the other hand, are supposed to comply with a less stringent rule, according to J. Kirby Coughlin. Coughlin told our office that the Board's policy is that all custodial employees, whether temporary or full time, are required to be fingerprinted before starting work, but need not wait for the results of the background check. And, according to Coughlin, in the event of an emergency at the school that requires extra manpower immediately, Coughlin's office is prepared to provide clearance for those persons who cannot be fingerprinted in time. However, there is wide misunderstanding among custodians about the rule. One such custodian, William Walsh, the temporary care custodian at I.S. 61 described earlier in this section, says he was told by the cleaners' union, Local 74 of the Service Employees International Union, that temporary cleaners hired for under 30 days need not be printed at all.

The results of our survey indicate that, in general, compliance with the Board's fingerprinting requirement for custodial employees is haphazard. Many custodians appear uninterested in enforcing the rule, and make the effort only when faced with pressure, such as this investigation. Some custodians appear to believe that seasonal or temporary employees need not be printed, because it can take two months or longer to get the results from the state central registry. Others feel that it is unfair to ask a newly hired custodial helper to pay the $73 cost of being fingerprinted and so those custodians either postpone enforcement of the rule or never enforce the rule at all. Board employees, on the other hand, do not enjoy the same treatment. Our recommendations addressing this serious disregard for the safety of schoolchildren and staff appear at the conclusion of this report.

IV. THE CUSTODIAN'S PAYROLL

Introduction

Just as a custodian has tremendous freedom over his own attendance at his building, over whom he hires, and over whether or not he subjects his employees to criminal history checks, he has great independence over his payroll. That independence, and the opportunities it creates for fraud, are discussed in this section.

A. Former Custodian Paul Safina Tells Us How The Board Helped Pay To Renovate His Home And Pay Back A Personal Loan

Paul Safina was a custodian with the Board from 1965 to 1992, when he resigned as a result of this office's investigation into his financial transactions. That investigation revealed a number of transgressions committed between 1988 and 1990, when Safina was a custodian at Junior High School 56 in Manhattan. These included Safina's manipulation of his custodial payroll so that Board money was used to pay for the installation of a window and various repairs in Safina's new home. Board money was used as well to pay back a personal loan made to Safina by an employee. Safina was arrested by investigators assigned to this office on August 11, 1992 on felony and misdemeanor charges arising from this misconduct. Those charges are currently pending in the New York County District Attorney's Office.

In exchange for more lenient treatment from the District Attorney's Office, Safina agreed to cooperate fully with this office and the District Attorney's Office and to make restitution to the Board of the money he stole. His cooperation has included a detailed description of his own wrongdoing and of other areas of abuse explored later in this report. Given the fact, as discussed below, that custodians are not required to create a payroll "audit trail," Safina's cooperation was critical to understanding the intricacies of his criminal methods. Our investigation also included numerous interviews with Safina's former employees and a detailed review of Safina's own books and records and bank documents relating to his accounts. Board records concerning Safina and his employees, to the extent that any existed, were also reviewed.

Investigating Allegations That A Custodian Is Padding His Payroll: Ask The Custodian

With the Board's money, Safina, like all custodians, hired the staff he required to provide custodial services to the school to which he was assigned. His budget was paid to him by the Board in bi-weekly installments. A custodian's budget allocation is based on a formula that presumes that he will need a designated number of employees to maintain a building that has a designated number of square feet.[16] There is not, however, any requirement that the custodian hire any particular number of employees.

The individuals the custodian hires are not public employees of the Board, but are the custodian's private employees. They are thus not paid directly by the Board and are not subject to the supervision and control of anyone other than the custodian. Like many other custodians, Safina paid his employees from his personal checking account, in which he commingled the public money given him by the Board with his personal funds. Thus, Safina paid his employees from the same account his wife used to buy the groceries and Safina used to pay for his personal credit-card expenses. At the time Safina committed the crimes described here he had about ten employees on his payroll. The total number of employees on custodial payrolls throughout the city at any

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[16] The complex formula that determines the budget is set forth in the labor contract between the custodians and the Board. According to that contract, the custodian's budget must be based on a variety of factors, including the square footage of the building to which the custodian is assigned and other variables, such as whether there is a swimming pool or elevators in the building.

63

given time ranges from about 4,800 to 5,500.

Safina, like most New York City school custodians, performed a management function at Junior High School 56, supervising employees, purchasing supplies, and handling the payroll. He hired employees such as cleaners, handymen, and a boiler operator, known as the "fireman" to perform the "hands-on" work at the school. Many custodians, including Safina, also hire a secretary.

Consistent with the Board's treatment of custodians as if they were independent contractors, all the Board requires in the way of documentation concerning these employees is a copy of their employment applications which the custodian is required to forward to the borough office. In investigating the various cases described here, including this one, we attempted to review applications for hundreds of such employees and learned that this requirement is only loosely followed. Thus, frequently there is no application on file in the borough office. This is especially the case for those employees considered by the custodian to be "casual," that is, hired for only a short period of time, usually to complete a contractually mandated cleaning of the school during a school break.

As a custodian, Safina was required by the Board and by his labor contract to keep an accurate record of the time worked by his employees by means of a time clock. The time cards used in the clock are supposed to be available for inspection by plant managers. Safina was also obligated to report to the Board the number of hours each of his employees worked in a given month on a form called a P.O. 1. The P.O. 1 form, however, simply lists the total hours each employee worked and the employee's compensation during that period. A custodian is not required to state the particular days or hours worked by each of his employees, or to submit the relevant time cards along with the form. Nor is he even required to list the full name of his employees. Often, the P.O. 1 form contains only a first initial, a last name, and a social security number for each employee. Thus, the Board may or may not know who a particular custodian is employing at any given time, and it certainly will not know much about that employee beyond a last name.

Since a custodian is considered in many ways to be like an independent contractor, his payroll is never audited by the Board. A plant manager is advised by the Board to make two unannounced visits every month to each school in his district and may, during the course of these visits, ask to review the time cards and take attendance of the employees, but he is not required to do so. These visits are made during business days, however, even though many custodians pay their employees for work ostensibly done at night or on weekends.[17] According to Safina, since he generally performed up to or beyond his contract requirements, and was not the subject of complaints from the principal, he was only visited by his plant manager about six times a year for the five years he was at Junior High School 56. In the 27 years that he worked as a custodian he could recall only three instances when a plant manager asked to review his employee time cards. He could not recall any instance when a plant manager asked to compare those time cards with his P.O. 1 forms.

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[17] Plant managers are advised by their supervisors to make night visits to a building only if the custodian at that building employs another custodian as a part time worker at night.

This system obviously presents tremendous impediments to the successful investigation of allegations that a custodian is defrauding New York City by charging the Board for "no-show" or "seldom-show" employees. As a threshold matter, the fact that custodians may commingle public money with their personal funds makes exact auditing of their payrolls or other expenses virtually impossible. Moreover, to obtain even the most rudimentary information about any custodial employee, such as a birth date or current address, or to find out for what days or hours an employee was paid in a given period, one must approach the custodian or the employee himself, in effect asking them to reveal their own wrongdoing.

If custodians were independent contractors with their own money at risk this set of circumstances would not be surprising. Since custodians are operating with public money it is, in fact, astounding that they are able to operate their payroll with no requirement that they leave an "audit trail" behind them. As a result, as illustrated below by the Safina case, a custodian contemplating theft can take advantage of the lack of controls over his payroll in any number of ways.

Safina Renovates His Home With Board Money

In 1987 Paul Safina purchased a new home that was in need of renovations. His son-in-law at the time, Charles Granata, and Charles' brother Carl Granata were contractors. Safina hired Carl to remove a window from Safina's new home and to replace it with a new one. Carl agreed to perform the work for $500 and accomplished the task with his brother Charles in about May or June, 1987. On January 7, 1988 Safina wrote Carl Granata a check for $510.86 from the personal bank account he shared with his wife and where Safina also kept his custodial budget. On October 7, 1988 Safina wrote him a second check, from the same account, for $23.76.

Upon hiring the Granatas, Safina obtained Carl Granata's social security number. Then, over Christmas vacation, when custodians are required by their contract to clean the school and it was thus least likely that having extra employees would look suspicious, Safina created a Junior High School 56 custodial employee time card for Carl and punched it in the time clock to show that Carl had worked a total of forty hours over the course of six days at the end of December, 1987. Safina explained that he chose to put Carl, and not Charles, on the school payroll because Charles was his son-in-law and Safina did not want to tangle with the Board's anti-nepotism rules.[18]

On January 21, 1988 and again on October 7, 1988, Safina submitted P.O. 1 forms to the Board's Custodial Payroll Office on which he included Carl Granata's name and social security number. He indicated on those forms that he had paid Carl, at a handyman's pay rate, $510.86 and $23.76, respectively, for services performed at the school.[19] Since the Board acts as the custodians' tax collector and thus paid social security and income tax on the total of $534.62, Safina actually stole $605.76 from the Board by causing the Board to pay for the installation of his window.

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[18] These rules, and the efforts that some custodians make to circumvent them, are discussed later in this report.

Safina also needed repair work done on a deck behind his home, on his boat, on his boat dock, and on a woodshed in his backyard. He instructed three of his employees to work at his home on these jobs on several Saturdays in 1988 and 1989 while they were "on the clock" at the school. One of those employees was Paul Portelli, the fireman. On approximately three or four Saturdays during this period Portelli helped Safina at Safina's home. At this time Portelli had the regular job duty of appearing at the school on Sundays to check the premises. On the Sunday after having worked at Safina's home, at Safina's direction, Portelli would tamper with the time clock and make an entry on his time card so that it appeared that he had worked at the school on that Saturday instead of at Safina's home. Or else he would stop at the school before going to Safina's home to "clock in" and then again on the way home to "clock out."

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[19] The second check for $23.76 was paid retroactively as a result of a raise negotiated by the cleaners' and handymen's union.

The other two employees were Donald Zinn and Michael DeSimone. On the Saturdays that Safina had these employees working at his home, Safina would instruct an employee actually present at the school to punch Zinn's and DeSimone's time cards to show that they had been working that day. Louie Torruella was one of Safina's employees who actually did work at the school on Saturdays during this period. He recalled several Saturdays when, at Safina's direction, he punched the Zinn and DeSimone time cards even though they were not present at the school. On other occasions Safina himself tampered with the time clock on Monday mornings to credit Zinn and DeSimone with several hours of weekend work at the school. The amount in Board money paid to Portelli, Zinn and DeSimone for their labor at Safina's house was approximately $2,000.

Safina Pays Back A Personal Loan From Portelli With Board Money

Sometime during the latter part of 1988 Safina borrowed $2,000 from his fireman, Paul Portelli. Some months later, in 1989, Safina borrowed an additional $1,500 from Portelli. Safina paid Portelli back by artificially inflating the number of hours Portelli worked over a several month period in 1989. Both Safina and Portelli, at Safina's direction, tampered with the time clock so that the time card would record hours not actually worked by Portelli. Consequently, during the period that Safina paid back this loan, Portelli's bi-weekly paycheck was fraudulently increased by between $50 to $200 per paycheck until Portelli was repaid the loan plus an additional 20% on the loan amount. The additional 20%, according to Safina, was reimbursement to Portelli for the amount Portelli would have to pay in income tax on his added earnings.

Safina Outperforms Other Custodians

Even though Safina, by his own admission, was not spending every penny of his budget on the upkeep of his school, he still managed to earn letters of commendation from parents and principals and was even nominated for an award by the "Reliance Awards For Excellence In Education." But Safina found that his good work did not earn him praise from his colleagues; rather, on one occasion in particular when his extraordinary efforts became known to the custodians' union he was warned not to "hurt the negotiations" concerning the labor contract.

On that occasion, in 1967, he recalled that he had arranged to have the gym floor at his school sanded and varnished and he paid for that improvement with funds from his custodial budget. Seven years later, when he transferred to another school, he was challenged by Arthur Salvadore, an office holder in the custodians' union. Salvadore, who now holds the union position of Borough Chairman for Brooklyn Schools, told Safina that Safina had "no right" sanding the gym floors in the schools to which he was assigned. According to Salvadore, Safina should not be improving floors in that manner because that was a contract service that should be done by the Board. Salvadore indicated that Safina was making other custodians "look bad." To clear his good name Safina felt compelled to invite Salvadore to his new assignment. He showed Salvadore the unimproved gym floor in that school as proof that he had learned his lesson.

Safina managed after that not to have his extra efforts made known to the union, but he recalled several union meetings in which the subject of custodians exceeding their contract requirements was raised. Those discussions always ended with the warning that those individuals were "hurting the negotiations" by outdoing their colleagues.

B. Edward Butler: Breaking Up With the Secretary But Keeping Her On The Payroll

Ed Butler has been the custodian at P.S. 31 in Brooklyn since 1990. In July, 1990 he put his girlfriend, Charlee Forte, on his payroll as his part time secretary. We were told by an anonymous source that Butler had "ghost" employees on his payroll and that Forte was one of them. Our investigators established that this was, in fact, the case. By means of employing this "ghost" Butler managed to steal over $5,000 from the Board.

Forte told us that her relationship with Butler ended in the fall of 1991 at which time she stopped working at the school. Forte's name nonetheless continued to appear on the P.O. 1 forms every month, except for one, until the end of July, 1992, even though Forte had long since taken a job as a bartender in Suffolk County.

Four of Butler's employees, as well as the principal at the school, Patricia Syman, remembered that Butler had occasionally employed a secretary. They could not recall having seen Forte, or anyone meeting her description, at the school for about a year.

Despite having Forte's name on the P.O. 1 forms until July, 1992, Butler was unable to produce a single time card for her for any period after October 24, 1991, which is certainly consistent with Forte's statement that she was not at the school after the fall of 1991.

There are also no regular payroll checks made payable to Forte after October 24, 1991.[20] She was paid by check when she actually worked at the school and Butler's other employees continue to be paid by checks written on a school operating account in Butler's name. A review of that account does reveal numerous cash withdrawals between October, 1991 and July, 1992. Thus, it is possible that Butler simply withdrew the amount he claimed Forte earned on the P.O. 1 forms from his checking account in cash and used the cash for his own personal expenses. Since there is no requirement that custodians segregate their personal funds from Board money, however, cash withdrawals are not dispositive proof of criminal wrongdoing as such withdrawals might be in more ordinary business or government accounting practices.

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[20] There is one retroactive check made out to Forte, and apparently endorsed by her, dated May 28, 1992, at least seven months after she stopped working at the school. All of Butler's employees received a similar check that was paid retroactively as a result of a pay raise negotiated by the cleaners' and handymen's union.

Even though there are no payroll checks or time cards for Forte after October, 1991, Butler's P.O. 1 forms make clear that the Board paid Butler a total of $5,381 to compensate him for Forte's part time salary between October, 1991 and July, 1992. Clearly, nothing in the current system of controls over a custodian's payroll, consisting exclusively of infrequent school visits by plant managers, was adequate to detect Butler's blatant form of theft from his payroll budget.

C. Michael Figluizzi: Disguising Payroll Abuse By Keeping No Records At All -- Or Making Them Up As You Go Along

Figluizzi's Girlfriend/Secretary: Does She Or Doesn't She Punch A Time Card?

Michael Figluizzi is the custodian at P.S. 111 in Queens. His part time secretary since April, 1990, has been his girlfriend, Phyllis Wegener.[21] Our investigation demonstrated that Figluizzi paid Wegener for time she actually worked at a law firm. Figluizzi and Wegener successfully thwarted efforts to pin down the exact amount of time for which she was paid but did not work by failing to keep any accurate record of Wegener's attendance at the school. It appears that Figluizzi paid Wegener for at least three days when she was at the firm, and not the school. Figluizzi and Wegener attempted to disguise that fact first, by not keeping a time card for Wegener and then, in response to our investigation, by manufacturing phony time records as proof of her attendance at the school on particular days.

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[21] Since hiring Wegener in 1990, Figluizzi has served as custodian at a number of schools: P.S. 34 in Manhattan, P.S. 61 in the Bronx, P.S. 169 in Queens, P.S. 213 in Brooklyn, P.S. 65 in the Bronx, P.S. 166 in Manhattan and P.S. 161 in the Bronx. Wegener has been his secretary at each of those schools.

On February 11, 1992 the plant manager assigned to Figluizzi, Thomas McEnteggart, told this office that on February 6, 1992 while making a routine visit to P.S. 111, he asked Figluizzi for Wegener's time cards. Figluizzi responded that he had never required her to keep a time card but that he would begin to do so.

Intermittent surveillance conducted on Wegener during the summer of 1992 revealed that while she did occasionally appear at P.S. 111, she appeared much more frequently at the law firm of DiConzo, Larocca & Dicunto in Brooklyn. We thus endeavored to find out whether her time records at P.S. 111 were consistent with our observations.

On September 18, 1992 we requested from Figluizzi any documents he had concerning the dates and times that Wegener worked. In response, Figluizzi provided our investigators with five time cards, each covering a period of two weeks. Figluizzi added that some time cards had been stolen from his jeep, but told our investigators that he would be able to provide most of the time cards for Wegener covering the last 18 months, back to approximately March, 1991. In contrast to these statements made to our investigators on September 18th, when Figluizzi was confronted by McEnteggart in February, 1992 he did not mention a theft from his jeep. Moreover, he stated then that he simply had not required Wegener to keep a time card and that he thus did not have any for her.

We also spoke to Wegener on September 18, 1992 at which time she stated that she worked two days a week at P.S. 111 and three days a week at the law firm as a legal secretary. Both she and members of the firm, where she had worked on and off for approximately 20 years, insisted that no time records were kept for her, and that there was no way to reconstruct exactly which days she would have worked at the firm.

Three days after our investigators visited his office, Figluizzi called here and stated that he was unsuccessful in locating any additional time cards for Wegener. Thus, even though Wegener had worked for Figluizzi for two and one half years, he was able to produce only five time cards. Moreover, two of the time cards contained some handwritten, as opposed to printed, time entries. Figluizzi stated that he had made those entries on one time card although he knew that to be improper. There were no time cards for any of the periods during which we had conducted surveillance on Wegener.

The Attendance Sheet

In response to our request on September 18th for any records concerning the dates and times that Wegener worked, the only other documents that Figluizzi could produce, that related to that request, besides the five time cards, were unofficial "attendance sheets" he used to keep track of his employees' vacations and sick leaves. Figluizzi stated that he made the entries on those sheets himself. The investigators observed Figluizzi as he searched his office for the requested records. They watched as he opened the bottom drawer on the right side of the desk that they later learned was used by Wegener, and had an opportunity to observe the contents.

Our review of the 1992 attendance sheet disclosed discrepancies between the entries there and our surveillance observations on three separate dates. On two of those days, Wegener was entered on the sheet as working at the school when she was observed working both days at the law firm. On the third of those dates, the sheet indicated that Wegener was paid by Figluizzi for a sick day. Our surveillance revealed that she worked that day at the law firm.

Wegener was examined under oath at this office on September 25, 1992, about her time keeping practices and about the discrepancies between the attendance sheet and our observations. On that occasion, in contrast to what Figluizzi had told McEnteggart on the subject, Wegener stated that since she began as Figluizzi's secretary it has been her practice, to the present time, to punch a time card. It was her duty to maintain all the time cards, including her own, and she kept them in the bottom drawer on the right side of her desk. Wegener could not explain what had happened to the missing time cards. Contradicting

Figluizzi, she also stated that she, and not Figluizzi, had made the handwritten entries on her time cards and on the attendance sheet.

Wegener maintained that she may have made mistakes in filling out the attendance sheet in that she may have marked the wrong two days in a given week. She did not, however, see any problem with working at the law firm and being paid for a sick day by Figluizzi at the same time. Last, Wegener expressed a wish to examine the "white payroll sheets," documents never mentioned by Figluizzi, that she kept in the bottom drawer on the right side of her desk. Those documents, according to Wegener, were the only reliable record of her exact attendance at the school.

The White Payroll Sheets

Investigators returned to the school that same day, although they could not recall having seen any "white payroll sheets" when they had viewed the contents of that drawer on September 18th. Not surprisingly, there were no payroll sheets in the drawer when they returned to the school on September 25th. Figluizzi was served with a subpoena for those, and any other payroll documents in his possession, the next day.

On October 1, 1992, at the school, Wegener produced "white payroll sheets" on behalf of Figluizzi in response to the subpoena. Those documents, which record Figluizzi's employees' attendance on a monthly basis, are not required to be kept by the

Board and are apparently maintained by Figluizzi to comply with obligations he has with respect to the unions that represent his employees. Interestingly, Wegener produced original sheets for 1991. The sheets for 1990 and 1992, however, were copies. In handing over the documents, Wegener volunteered that she had been at the school until 7:00 p.m. the night before copying the documents. When the investigator requested the originals from which she had made the copies just the night before, right at the school, Wegener stated that they were not in her possession. Five days later, on October 6, 1992, Figluizzi gave the originals to our investigators.

Unlike the attendance sheet, produced before Wegener was aware of any dates when she had been under surveillance, the white payroll sheets, produced after she was aware of three of those dates, were consistent with our observations on those dates. The white payroll sheet were, naturally, inconsistent with the attendance sheet, and inconsistent as well with our observations on at least one other surveillance date of which Wegener was not aware. On that date Wegener was observed working at the law firm but was recorded as being at the school on the white payroll sheet and as not being at the school on the attendance sheet.

Having considered the documentary evidence and our own observations, it is clear that both Wegener and Figluizzi lied about the days Wegener worked at the school. Moreover, the evidence also indicates that at least some of the documents they produced, the white payroll sheets, were recently fabricated in response to our inquiry. Most unnerving is the fact that Wegener's and Figluizzi's lies were so blatant and that the phony documents they produced were so obviously fictitious. This, and our other encounters with custodians and their staffs, suggests to us that Figluizzi and Wegener, and probably many others like them, have absolutely no fear of detection -- and for good reason.

D. Detecting Fraud In A Custodian's Payroll

The current custodial payroll system operates to frustrate and discourage investigations into possible fraud and misconduct, rather than facilitating those efforts. The fact that record keeping is so abysmal and so widely disparate among custodians creates the first roadblock to investigating these crimes. The additional fact that the only source of these documents is the custodian himself only adds to the difficulties. Last, since custodians hire their own employees, who then answer only to the custodian, certain other risks are created that are unique to the indirect system. For example, understandable self-interest must dictate to these employees that their loyalties are best placed with the custodian, and not with the Board. Thus, in those cases where the employees are aware of payroll fraud they would most likely be reluctant to report it since, if the allegations were proved correct, the custodian might be out of a job, and his employees' jobs would be at risk. If the allegations were not

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Safina, Butler, and Figl
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V. HOW TO CIRCUMVENT THE ANTI-NEPOTISM RULES: YOU HIRE MY WIFE, I'LL HIRE YOURS

Until 1979, school custodians were free to put members of their own families on their payrolls. The temptation was obvious: hiring members of one's own family could mean a significant increase in the family's income. A 1977 report by the New York State Comptroller warned that nepotism had become so commonplace by that time that "three out of every four custodians [at the schools surveyed for the report] had at least one relative on the payroll; many had more."[22] A companion report by the State Comptroller exposed one such custodian who hired his wife and son, paid them excessive overtime, reported them present when they were absent, and falsified their time cards.[23] His case and the likelihood that there were others like him led to a new rule banning nepotism, which was enacted over strong objections from the custodians' union. The union challenged the new rule and won a grandfather clause that permitted custodians to keep in place those relatives already on their payroll prior to 1978.

The grandfather clause blunted the impact of the newly enacted nepotism ban. A 1980 State Comptroller's follow-up report pointed out that nepotism was still rampant, because so many custodians' relatives had been permitted to keep their jobs.[24] Furthermore, according to the report, the custodians were evading the rule by simply hiring each other's relatives. The report went on to say that the dangers of this continued favoritism in hiring had not been eliminated: a custodian might be inclined to give a reduced workload to family members, manipulate their time records to cover their absences, or give them unreasonable amounts of overtime to boost the family take-home pay. What's more, the report noted, wives performing secretarial duties for their husbands were being paid handyman's wages, since there was no secretarial position on the union wage scale. Not only were the wives being paid much more than other secretaries working for the Board,[25] but they were also occupying handymen's positions without the skills to perform a handyman's work. Again, the State Comptroller urged the Board to tighten its supervision of custodians employing their relatives by using "frequent surveillance and audit" procedures.[26] The

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[22] "Financial and Operating Practices, Bureau of Plant Operations-Custodial Services, New York City Board of Education, July 1, 1974 to January 31, 1977," Audit Report NYC-64-77, Office of the Comptroller, State of New York, at page 2.

[23] See "Custodial Service at a Certain High School, New York City Board of Education," Audit Report NYC-4-77, Office of the Comptroller, State of New York, January 28, 1977.

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[24] "Bureau of Plant Operations Custodial Services Follow-Up, New York City Board of Education," Audit Report NYC-21-80, Office of the Comptroller, State of New York, at page 17.

[25] A 1981 State Comptroller's Report criticizing nepotism in the custodial system found that, at that time, custodial secretaries earning handyman's wages were being paid as much as three dollars an hour more than other secretaries in the school system. "Bureau of Plant Operations Custodial Services Follow-Up, New York City Board of Education," Audit Report NYC-21-80, Office of the State Comptroller, State of New York, October 1981. It appears from an examination of secretarial rates now being paid by the Board that custodial secretaries continue to earn approximately three dollars an hour more than Board secretaries.

[26] Id. at p. 19.

Board apparently chose not to do this. Our investigation has shown that custodians continue to work together to evade these anti-nepotism rules. In fact, as described below, at one union meeting, a former head of the custodians union laughingly referred to the practice as "wife-swapping," while addressing the issue. According to information given to this investigation, custodians network among themselves to find employment for their family members, extending favors and then demanding favors in return. And, as set forth below, it appears that one custodian went so far as to divorce his wife, even though they continue living together, so as to avoid the nepotism ban. Several cases of maneuvering around the anti-nepotism rules are described below.

A. Paul Safina

Paul Safina kept his wife on the payroll after the 1979 ban went into effect by joining the challenge to the new rule and then relying on the grandfather clause that was later created. Carolyn Safina continued to work as a secretary for her husband until 1985, when she was finally forced to quit. Her departure came after she had twice been caught with her time card punched as if she was on the job when, in fact, she was not. Safina agreed to fire his wife in order to preserve his own service rating, which, his supervisors agreed, would not be lowered despite the fact that he knew that his wife's time records were inaccurate.

Safina set out to find his wife another job. He recalls hearing the term "wife-swapping" at a union meeting, when then-union president Dan Conlin[27] discussed with the membership what was permissible within the bounds of the anti-nepotism rule. Safina learned that by networking with other custodians, he could find a swap arrangement. Using his contacts, Safina heard about a custodian named Steve McGuire, who was at that time the custodian at P.S. 34 in Manhattan, and was looking for work for his wife, Angela. The McGuires and the Safinas sat down over lunch one afternoon in the spring of 1986 and reached an agreement: Angela McGuire would become Safina's part time secretary, while Carolyn Safina would start working part time for Steve McGuire. Both wives were paid handyman's wages, even though their duties were limited to secretarial work. Thus they enjoyed the higher salary of a handyman, approximately three dollars an hour more than their counterparts, secretaries working at the Board.

In addition to hiring McGuire's wife, Safina also later accepted a $10,000 loan from McGuire, which Safina used to help finance the purchase of a new house. In the meantime, Carolyn Safina found it difficult to work for Steve McGuire and left that position after only a few months. Soon after that, Paul Safina met a custodian named Leonard Polikoff at a union meeting. Polikoff was looking for an experienced secretary, and agreed to hire Safina's wife. According to Safina, Polikoff did not require any favor in return. Once again, Carolyn Safina was paid handyman's wages for secretarial work, meaning that she was paid more than the average secretary working at the Board. In the midst of this investigation, Paul Safina resigned from his custodian's position and retired from the school system. Carolyn Safina, meanwhile, is currently working as a custodial secretary at FDR High School in Brooklyn.

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[27] Daniel Conlin was president of the custodians' union until 1987 when he was shot in a contract killing, with the motive for the murder still unknown.

B. **Ronald Lenahan**

Ronald Lenahan met Barbara Troy while they were both working at P.S. 184 in Queens. Troy was a handyman at the school when Lenahan became custodian there in 1984. They were married in 1986, which did not jeopardize the job of either, because the nepotism ban has been interpreted in favor of custodians to permit couples who marry while working at the same school to each maintain his or her job there. This interpretation of the rule stops short, however, of allowing both spouses to then transfer to the same school. So, when Lenahan was promoted in September, 1991 to the custodian's position at P.S. 188 in Queens, the rule prevented his wife from transferring with Lenahan to his new school.

Four months later, in January, 1992, Ronald Lenahan and Barbara Troy were divorced, according to records on file in the New York County Clerk's Office. Then, a month later, in February, 1992, Barbara Troy transferred to P.S. 188, joining

Ronald Lenahan's staff there. Despite being divorced, Troy not only transferred to Lenahan's school, but also continued to list the same home address as Lenahan--togetherness that seems unusual for a recently divorced couple.

When Lenahan's supervisor, Theodore Wozniak, the plant manager for District 26, discovered that Troy had transferred to Lenahan's new school, he informed Lenahan that Troy was in violation of the nepotism ban. In response, Lenahan claimed there was no violation of the rule since he and Troy were no longer married. To Wozniak, however, it appeared that Lenahan and Troy got a divorce in order to circumvent the rule. Whether Lenahan and Troy are, in fact, working in violation of the anti-nepotism rule is a question that is currently being considered by the Board's Conflict of Interest Committee. While the case is pending, Lenahan's payments to Troy are being disallowed, meaning that the Board refuses to recognize the payments as a legitimate expenditure of Lenahan's payroll funds. As a result, Lenahan must deduct Troy's salary from other funds in his budget, funds that might be better spent on cleaning or maintenance supplies for the school.

Troy's transfer to Lenahan's new staff would have attracted little attention had the two never gotten married. While custodians are not supposed to hire their wives, there is nothing to stop them from putting their girlfriends on the payroll. This investigation has focused on two custodians, Edward Butler at P.S. 37 in Brooklyn, and Michael Figluizzi at P.S. 111 in Queens, who both paid their girlfriends for hours not worked. Obviously, all the policy concerns underlying the nepotism ban apply with equal force to the situation of a custodian giving a secretarial job to his girlfriend. The cases of Butler and Figluizzi confirm that the practice of custodians hiring their girlfriends violates the spirit, if not the letter, of the nepotism ban.

C. **Howard Frank**

In 1989, Howard Frank stepped down from a custodial supervisor's job that was one of many such jobs being eliminated at that time by the Board. Frank and others like him who relinquished the supervisors' positions were given custodians' jobs at some of the most desirable schools in the city. Frank opted to take the custodian's position at P.S. 113 in the Bronx. His so-called step down to the custodian's position meant that Frank could boost his annual salary by more than $10,000 a year. It also meant that Frank could hire a staff. He decided to put his wife, Eleanor, on his payroll.

However, Eleanor Frank faced automatic disqualification under the anti-nepotism rule unless she satisfied the grandfather clause in the rule; that is to say, unless she had been working for her husband on a school custodial staff prior to 1978. At first glance, this was not a problem for Howard Frank: he had been a school custodian at P.S. 76 in Manhattan until 1967, when he was promoted to the supervisor's job. All he needed was some type of document from his old custodian's job at P.S. 76 that showed Eleanor Frank on his payroll. He produced just that--a P.O. 1 dated July 2, 1967 which listed the name and social security number of Eleanor Frank along with the names of other employees being paid for that particular two-week pay period in 1967.

However, upon closer inspection, Frank's new supervisors noted that the document appeared to have been altered, with Eleanor Frank's first name written where Howard Frank's first name had once appeared, and with the social security number also changed. This office consulted a handwriting expert, John Paul Osborne, who has performed hundreds of forensic document examinations. Mr. Osborne examined the document and determined that it had, in fact, been altered with the insertion of the name Eleanor and her social security number where someone else's had once been listed.

Further investigation by this office revealed that, with the exception of this one P.O. 1, there were no other records on file indicating that Eleanor Frank had been employed as a custodial helper in 1967. The U.S. Department of Health and Human Services confirmed that there were no social security contributions made by the Board on her behalf. Similarly, Board records for the year 1967 contain the names of all Howard Frank's employees, except for the name Eleanor Frank. And Howard Frank's own custodian's log book for that year omits the name of his wife from the list of persons hired as temporary helpers.

When confronted with these facts, Frank admitted that he had doctored, or "freshened," the records to reflect that his wife had worked for him in 1967. He went on to say, "thirty-year-old records can't hurt me."

This office searched for the members of Frank's 1967 staff at P.S. 76 and found one, Clarence Bryant, who is now retired. Bryant recalled that he did see Eleanor Frank working for her husband at P.S. 76. Consequently, while Frank altered the document and later lied about it, he may have been telling the truth when he stated that his wife should be exempt from the nepotism ban because she worked for him prior to 1978. As a result of his actions, Frank was forced to retire from the school system. His early retirement may make him ineligible for an increase in his pension that he would have been entitled to had he remained in his position for another several months.

D. Making the Anti-Nepotism Rule Work

This investigation has confirmed that nepotism is still pervasive in the custodial hiring system, enhanced by a networking system used by custodians to subvert the anti-nepotism policy. Because each custodial staff is considered a unit independent of others for purposes of the nepotism rule, the custodians can simply rely on each other when a family member needs a job. Consequently, hiring is often a closed system, which means that those job opportunities are denied to persons outside the family circles. If the nepotism policy is to be taken seriously, it must somehow be addressed to the system as a whole, meaning that custodians are precluded from swapping jobs for their relatives. In its present form, the rule is under-inclusive and, therefore, ineffective.

VI. TIME CLOCK ABUSE AS STANDARD OPERATING PROCEDURE

As discussed above, when custodians hire their own relatives, or extend favors to other custodians by hiring their family members, it has an impact on, among other things, the level of supervision that the custodian exercises over the "related" employees. An examination of how, or whether, a custodian supervises his own employees -- related or not -- raises other issues concerning the quality and quantity of work performed by those employees.

Since custodians are largely unaccountable to anyone concerning their supervision over their staff, and since they pay that staff with Board dollars, they can afford to be lax about time abuse: so, the employee is cheating an hour or two each day. Who's counting? Who cares? It's the Board's money, not the custodian's. As revealed below, time abuse is not confined to custodians committing premeditated theft, like Paul Safina or Ed Butler. Rather, a custodian is in a position to ignore, condone, or even encourage time abuse on the part of his employees.

A. The Custodial Staff of William Ryan

William Ryan is the custodian at the 49 Flatbush Avenue Extension, a Board of Education facility in Brooklyn that, as mentioned above, is home to the twelve plant managers and the borough plant manager who supervise all the Board custodians in Brooklyn and Staten Island. As was discussed, Ryan appears only occasionally at the building to which he is assigned, leaving most management and supervisory responsibilities in the hands of his favored employee, William Best.

Interviews with several of Ryan's employees revealed a daily practice of some employees punching other employees' time cards, allowing certain individuals to leave early while getting paid for a full shift. Pablo Ramos is a retired custodial employee whose job it was to sit at the front desk at 49 Flatbush Avenue and require visitors to the building to sign a log book. He stated that because there was no one else to watch the front door during his late afternoon shift, which lasted from 3:00 p.m. to 12 midnight, he was required to stay at his post for that entire period.

On a daily basis Ramos watched as one employee, Epan Mappurathu, punched the time cards of co-employees Robert Cori and Cruz Rodriguez,[28] allowing them to leave as much as one to one and a half hours early. On many occasions Mappurathu also left early, in which case Ramos would punch Mappurathu's, Cori's and Rodriguez' time cards before he left. Mappurathu confirmed this practice. Ramos also often observed that when he arrived at 3:00 p.m. Best was already gone for the day. Best's time card, however, would not be punched until sometime after 3:00 p.m., usually by co-employee John Cori, Robert Cori's bother.

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[28] Besides being Ryan's employee at 49 Flatbush Avenue, Rodriguez is the superintendent of a building Ryan owns on Prospect Park West in Brooklyn. Rodriguez lives in that building at a greatly reduced rent.

Ramos' remarks regarding Best's routine were confirmed by our own observations on March 25, 1992. On that date, Best was seen leaving 49 Flatbush Avenue at 2:39 p.m. He went to an apartment building owned by Ryan on Avenue U in Brooklyn, left the building with a woman, and then dropped her off at JFK airport at 4:16 p.m. His time card for that day is punched out at 3:03 p.m. As Best's regular schedule at 49 Flatbush Avenue included an hour of overtime each day, he was collecting pay at the premium rate, time and a half, for work he never performed.

Hector Rosado, another of Ryan's employees, has the morning security shift, from 6:00 a.m. to 3:00 p.m. at 49 Flatbush Avenue. He also works about three Saturdays a month, from 7:00 a.m. to 2:00 p.m. at the overtime rate of pay. The five other employees assigned on a regular basis to work on Saturday are William Best, Denzel Liebert, John Cori, Robert Cori, and John Passaro. Those individuals, who are also paid at time and a half for weekend duty, are all assigned to work from 6:00 a.m. to 12:00 noon.

Rosado stated that when he arrives on Saturdays at 7:00 a.m. he regularly observes that Best and Robert Cori are not there but that their time cards have been punched at 6:00 a.m. All the employees, other than Rosado, who has the security post and is thus confined to the front desk for his entire shift, generally leave between fifteen minutes to one hour early. Rosado punches all of their time cards at 12:00 noon.

The fact that Robert Cori engaged in time abuse was confirmed by other sources. Cori is one of Ryan's part time, evening employees. During the day he has a full time custodian's job at the Thomas Jefferson High School athletic field. Until 1985 Cori was the custodian at P.S. 8 in Brooklyn; he left that school while under investigation by the Board's former Inspector General's Office and the Brooklyn District Attorney's Office. Cori was indicted in 1985 for defrauding the Board by placing a "ghost" employee on his payroll and related crimes. He pled guilty in 1986 to grand larceny in the third degree and was sentenced later that year to probation. In October, 1988 the Board appointed him to the Thomas Jefferson Athletic Field.

Cori was arrested a second time, in April, 1991, for driving while intoxicated. He pled guilty a month later to driving while ability impaired.[29] As a condition of his guilty plea Cori was required to take a "drunk driver" course, and he fulfilled that obligation by attending the Drinking Driver Program at New York City Technical College. Cori could not, however, resist the temptation to take at least part of that course while "on the clock" at 49 Flatbush Avenue. On three occasions his time card shows him to be working at the building, although the College records reflect his attendance in class. On one occasion Cori was paid by Ryan for a sick day when, again, he was in class.

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[29] The Board never learned of this arrest or conviction. At the time of the arrest there was no obligation on the part of Cori, as a Board custodian, to inform the Board that he was the subject of criminal proceedings.

Ryan's plant manager, whose office is located in 49 Flatbush Avenue, either did not observe or chose not to comment on these practices. Significantly, both Epan Mappurathu and Pablo Ramos stated that they recalled instances when Best told them that the plant manager would be making an "unannounced inspection" of the building that day. On those occasions, Best had time to collect the staff and ensure their presence at the time of the visit. How Best came upon this information is not known.

B. The Custodial Staff of Paul Safina

As noted above, Safina instructed his employees to falsify their time records on several occasions. Given the example set by the boss it is not surprising that some of the employees regularly punched the time cards of one of their co-workers so that he would not have to work a full day. Louie Torruella stated that he often worked on weekend days when both Paul Portelli and Michael DeSimone were also assigned to work. On several occasions he recalled arriving at the school and observing that Portelli, who always had the earliest shift, was there, but that DeSimone was not. He also observed on those occasions that DeSimone's time card was already punched although he did not show up until some time later. On some of these weekend days Torruella recalled Portelli saying to him, as Portelli left for the day, "you know what you gotta do." Torruella understood that what he had to do was punch DeSimone's time card even though DeSimone had left earlier.

Portelli also took advantage of his boss' disregard for accurate timekeeping. With Safina's permission he would often punch in on a Sunday or holiday, walk through the school to make sure it was in order, and then leave without punching his time card when he left to show the time of his departure. Later, when calculating his wages, Safina would credit Portelli with two hours of work at overtime rates even though both he and Portelli knew that Portelli had only spent about twenty minutes at the school.[30] A review of just one year's worth of time cards indicated that in that year, 1990, Portelli clocked in, but not out, on 56 different Sundays and holidays.

The sort of time abuse described here, although petty when considered separately, adds up to a tremendous waste of potential labor and a great financial loss to the Board. It is hard to imagine any school in New York City that would not benefit from every minute of custodial labor that the Board pays for with scarce dollars.

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[30] The custodians' contract with the cleaners' and handymens' union requires that if an employee is assigned to work on a weekend or holiday he or she must be guaranteed two hours of work.

VII. THE CUSTODIAN'S PURCHASES

A. Custodial Supplies And Equipment

The Board provides many basic supplies to the custodian at no cost, such as cleaning material, toilet paper, light bulbs, and paint. The custodian can use the money in his budget to buy additional supplies and equipment not provided by the Board in sufficient quantity, or not provided at all. The sorts of items frequently purchased by custodians range from floor wax and nails to jeeps[31] and personal computers. The custodian is not required to use any particular percentage of his budget to hire employees or to purchase supplies. Generally, however, approximately 96% of the custodian's budget is spent on labor, including the custodian's own salary, and the remainder is spent on purchases.

Given the range of the custodians' budgets, the amount spent on purchases varies from $3,200 to $48,000 depending on the size of the particular custodian's building. As is the case with the custodian's payroll, the custodian is free to pay for his supplies with checks written on his personal account, in which he has commingled his building operating money from the Board with his private funds.

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[31] The Board pays for five twelfths of the total purchase price of the custodian's jeep including insurance and maintenance related expenses. The jeep purchase is allowed so that custodians may travel between schools when they have temporary care of a second school and so that they can use it for snow removal from their assigned schools. By agreement with the Board, five years after the date the jeep is purchased the custodian owns the jeep outright, may use it entirely as his personal vehicle,and may purchase a new one for Board use.

All Board employees who make purchases on behalf of the Board, other than custodians, are required to adhere to a complex set of purchasing rules set forth in the Board's Standard Operating Procedures Manual. These rules require, for instance, that for purchases over $250 three bids be obtained and that the item be purchased from the lowest bidder. In contrast to all other Board employees, custodians may do business however, and with whomever, they choose.

The custodian accounts to the Board for the money he spends on equipment and supplies using a form known as a P.O. 2. These expenditures are subjected to a desk audit on a staggered basis by the Board's Auditor General's Office. The audit consists of a request to the custodian for copies of all his bills and receipts for every entry on his P.O. 2 forms. He must also produce copies of the corresponding canceled checks for all receipts $50 and over. The Board allows custodians 30 days to produce these documents. At one time the Board had eight auditors assigned to custodial audits, at which time 400 audits were accomplished every year. There are currently from two to three assigned to that task, although the Auditor General's Office hopes to increase the number.

The sort of audit described above is known as a "compliance" audit, as opposed to a "fraud" audit. Thus, the auditors check to see that the required paperwork is being kept, but they stop short of actually going to the school to see whether or not the items shown on the receipts are actually at the school. Nor do the auditors call the vendors to see whether the submitted receipts are authentic. In cases of particularly questionable paperwork the Auditor General can, and does, refer the audit reports to our office.

Should a custodian simply fail to produce the requested documentation, or should the submitted documentation be inadequate, the Board may "disallow" the expense. In that case the custodian must pay back the amount of the disallowed items, without interest, within 40 days. If he fails to do so, the questioned amount will be deducted from his next budget check. Thus, a custodian weighing the risks involved in submitting a phony expense item on a P.O. 2 form would not have to be a genius to realize that the odds were against an audit, and that, in any case, no auditor would ever be at the building poking around for an item that was supposedly purchased. Moreover, in the unlikely event that the phantom purchase was ever questioned, the custodian need only pay back the challenged amount, without interest, and without any risk of criminal prosecution for larceny. Thus, the worst case scenario for the custodian is that he has had an interest free loan which he must now pay back. As illustrated below, the weaknesses in this system present obvious opportunities for theft.

B. Samuel Lambert, Jr.: Seizing The Obvious Opportunity

In December, 1991 the Board's Auditor General referred to this office the results of an audit of the 1990 expenditures of Samuel Lambert, Jr., who has been a custodian since 1981 and has been assigned to P.S. 151 in Manhattan since August of this year. During 1990 he acted as custodian at three different schools, all in Brooklyn: P.S. 106, P.S. 133, and P.S. 54. The audit revealed that 13 receipts submitted by Lambert for purchases at the Brooklyn Floor Maintenance Supply Company were not supported with corresponding canceled checks. The Auditor General subsequently conducted audits into Lambert's expenditures in 1989 and 1991 at which time Lambert was assigned to I.S. 210 and Pacific High School, respectively, also in Brooklyn.

In all, Lambert submitted to the Auditor General 94 cash sales receipts from Brooklyn Floor Maintenance. Interviews with the owner and the manager of that company, Sam Markovich and John Brandon, revealed that 63 of the receipts were fraudulent. Markovich and Brandon made that determination based on a variety of factors, including the obvious one that the handwriting on those invoices did not match their own or their employees'. Additionally, certain prices were wrong, and some of the receipts contained a handwritten entry of "PAID." It was not the practice of Brooklyn Floor Maintenance to make that entry on receipts. The total in fraudulent invoices amounted to $9,150.60. While conducting the interviews at Brooklyn Floor Maintenance, our investigators noticed that the company's blank sales receipts were readily accessible to customers. Anyone wishing to grab a batch could easily do so.

Lambert provided to the Auditor General copies of two apparently canceled checks to correspond with two of the invoices that Markovich and Brandon identified as fraudulent. Upon close inspection of those copies and an analysis of the relevant bank records, it became clear that the check copies were also bogus. Notably, the account the checks were written on was closed four months before the date of the checks. Moreover, those two checks, as identified by their numbers, were never negotiated by the bank.

Our investigators discovered that Brooklyn Floor Maintenance was not the only company Lambert was using to defraud the Board. Lambert also created phony sales receipts from Weinstein & Holtzman Hardware. Lambert acquired blank sales receipts and filled them in himself, fraudulently showing that he had spent $80.00 on hardware supplies for the school. The owner of Weinstein & Holtzman confirmed that the receipts were counterfeit.

Lambert was caught because he could not supply canceled checks to the Auditor General's Office to correspond with all his claimed purchases. Since that requirement is only imposed when a custodian is audited, and since most custodians are not audited, there was a reasonable likelihood that Lambert's crimes would have gone undetected. Moreover, since Lambert, like many custodians, commingled his Board money in his personal account it is virtually impossible to know the full extent to which he stole from his budget. Clearly, the current system of monitoring and controlling a custodian's purchases is flawed and ineffective. A similar lack of controls, which allowed Lambert to commit his crimes, is also responsible for those committed by Paul Safina, discussed below, related to the issuance of "space permits" and the collection of "user fees."

VIII. STEALING USER FEES

Community groups and various service agencies regularly seek to use school buildings during hours when school is not in session. These groups operate programs ranging from breakfasts for needy students to community athletic leagues. Custodians make money from these before- and after-school programs. In fact, they have insisted on being paid to make the school available, even if the school building would have been open anyway, and even if the custodian does not perform any extra work in connection with the use of the space. Community groups have complained bitterly, and publicly, about the user fees they are charged, with much of their criticism directed at the custodians.[32]

A less notorious aspect of the user fee system is the handling of what are referred to as space permits. Space permits are the paperwork that is filled out, either by the custodian or by the principal, in connection with after-hours use of school space. The group seeking to use space submits an application and then the school must complete the paperwork. This task apparently passes back and forth between custodian and principal, depending on the school. According to Paul Safina, the space permits can be a gold mine for custodians in need of money.

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[32] See, for example, "Open The Schools For Real: Part III: Saving A Threatened Tradition" (undated), a report by the Neighborhood Family Services Coalition.

Safina claims that he first tampered with the user fees by suggesting to two different groups that they get a discount by allowing him to pocket part of the fee. Safina offered to make out the space permit for a smaller amount of space than the group actually used. Then he allowed the group to use extra space at half the price. For example, a group needing the gym, locker room, bathrooms, and several classrooms might be issued a permit for the gym only. They paid full price for the gym. However, they received a 50% discount on the extra rooms that they also used, with Safina stealing that portion of the fee. Because these were weekend activities, no one observed the actual amount of space being used except the users themselves and one or two members of Safina's staff.

Safina has named two groups with whom he made this arrangement. One is the Downtown Athletic Association, whose director, Mitch Winkeleer, cooperated with this investigation and fully disclosed his group's dealings with Safina. The other is the Mexican-American Sport Association, whose leader Alfredo

Delangel[33] lied to investigators on three separate occasions when they sought information about his arrangement with Safina. It is clear from Safina's confession that Delangel and his group not only exceeded the space on the permit with kickbacks to Safina, but also violated rules regarding the use of alcohol on school property. Safina acknowledges that he knew that Delangel's group was using his school, Junior High School 56 in Manhattan, as a social club, with alcoholic beverages served, despite Board policy that prohibits use of the schools for that purpose. Safina also admits that on at least five occasions he allowed the Mexican-American Sport Association to use Junior High School 56 with no permit at all. On these occasions, according to Safina, he accepted a $300 bribe from the Association in exchange for which the Association used the school without any payment to the Board.

To Safina, the space permit scheme seemed low risk; his supervisor never appeared to perform a weekend inspection at the school, even though custodial staff members routinely put in for weekend hours and are supposed to be working at the school during those hours. According to Safina, unannounced weekend visits by supervisors might have at least two positive effects: first, they might deter fraud in the issuance of space permits, and second, they might deter the falsification of time records by employees who feel it is safe to do so on the weekend when there is no one to observe that they are punched in on the time clock, but absent from the school.

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[33] Delangel has since died from injuries suffered when he was crushed by a car that he was repairing.

IX. CONCLUSION AND RECOMMENDATIONS

The cases we have examined in this investigation do not stand in isolation from each other. They are linked together, not simply because custodians are the wrongdoers, but because the custodial system facilitated the wrongdoing. Some of the wrongdoing documented in this investigation may seem astonishing. What is more shocking, however, is just how easy it was for the custodians to engage in the misconduct described in this report. These were not masterful criminal schemes produced by inspired minds. The schemes were simple, almost primitive in their design. The custodians discussed here succeeded simply because there was, and is, nothing to stop them.

There was nothing to stop Albert Friedland from being a charter pilot on Board of Education time. There was nothing to stop Paul Safina from paying for his home repairs and repaying his personal loan with Board money. There was nothing to stop Michael Figluizzi from paying his girlfriend for time she was working for a law firm. Most alarmingly, there was nothing to stop custodians from hiring individuals with violent criminal histories without the Board even knowing these individuals were in daily contact with children. Two such custodial workers were able to sell automatic weapons inside a school. This pattern, reflecting a system that is wide open to abuse, repeats itself in other areas we investigated.

But while the custodial system leaves the door wide open to fraud and other misconduct, it slams the door shut on those who try to detect the wrongdoing. Payroll records are often "lost" or in shambles. To the extent that such records exist at all, they are under the sole control of the custodian. Public funds are commingled with the funds the custodian uses to pay his personal bills. Payroll audits are not conducted. Principals are intimidated from reporting complaints because they have so little clout in a system that tips the balance of power in favor of custodians.

In approaching our recommendations, we are mindful that there are myriad issues the Board must take into account in providing custodial services, some of which are technical and outside the expertise of this office. We are also aware that many of the changes needed to restore the system's integrity will require concessions at the bargaining table or perhaps even legislation.

Whatever practical limitations exist, however, it is clear that in terms of integrity control, the current custodial system fails. The indirect system, at least in its current form, fails to meet even the most minimal standards for accountability for taxpayer funds. While wrongdoing will occur in any system, the schemes we found would have been much more difficult for other Board employees to accomplish. Custodians, however, because of the extraordinary independence they enjoy, were able to carry out these schemes with ease.

While we cannot state which system best delivers custodial services, or even which is realistically achievable by means of labor negotiations or the political process, we can state with confidence that either a direct system with on-site supervision by the principal or a system of genuine independent contractors would be vastly preferable to the current system in terms of fraud prevention.

Specific recommendations tailored to the individual areas we discussed in our report are set forth below.

A. Recommendations Concerning Individuals

Our conclusions regarding seven individual custodians, and one custodial employee, are based upon the findings described in this report. We recommend that the employment of those custodians, William Ryan, Edward Koester, Charles Haughey III, Edward Butler, Michael Figluizzi, Samuel Lambert, Jr. and Robert Cori be terminated. We also recommend that the employment of Figluizzi's secretary, Phyllis Wegener, be terminated.

B. Recommendations Concerning The Custodial System

Giving Principals Appropriate Control Over Custodians

A custodian lacks what just about every other public employee has: a boss. Certainly, an "on-site" boss would go a long way towards preventing some of the abuses illustrated in this report. Some aspects of that job could easily and appropriately be done by the school principal, who is most affected by the custodian's performance, and who is in a position to determine whether the custodian is present and working, and whether the school is clean and in good repair.

It is, after all, the principal who requires a clean and healthy environment to accomplish the important goal of providing an education to the students in her charge. It is thus difficult to understand how a principal can be held accountable for that education without the power to control custodial services at the school. Simply put, if the principal finds that the elementary school classrooms are dirty she should be able to direct the custodian to clean them. And, if she cannot find the custodian, she should be able to demand an explanation for his absence. If that explanation is unsatisfactory, she should be able to impose on the custodian some meaningful penalty. One could well understand how, under the current system, a principal might feel that an honest evaluation of the custodian is a waste of time, and not worth the risk of causing some retribution from the custodian. The principal's evaluation, after all, is not considered where it counts, in the custodian's transfer rating.

A principal, of course, whose primary job is education, has many other tasks and is not in a position to judge some aspects of the custodian's job, like whether a boiler is operating as it should, or whether payroll documents are in proper order. Thus, an additional role might still be played by an "off-site" supervisor possessing the appropriate qualifications to evaluate performance outside the expertise of a principal. We thus recommend the following:

1. The custodian should report to and be accountable to the principal. The principal's evaluation of the custodian should impact more than any other factor on whether the custodian advances in salary or suffers some penalty for poor performance. In those Board buildings which are not used as schools and in which there is thus no principal, an individual with an equivalent level of responsibility should be designated to provide this evaluation.

2. Currently, a custodian who excels at his job and pleases his principal by exceeding the requirements of his labor contract, as many certainly do, finds that the principal is powerless to reward him. To make matters worse, he will also find that he has earned the ire of his colleagues and union leaders by outperforming them. The existing rating system should thus be discarded in favor of one that truly reflects the quality of custodial service at the school, or other Board building, primarily as judged by the principal or equivalent manager.

3. Since the principal is entitled to the full services of the custodian, and not just the custodial staff, should she find the custodian to be unaccountably absent from the building, or engaged in non-custodial activities, that should result in a penalty and/or lower evaluation.

4. Custodians should be required to inform both the Board and the principal, or like manager in non-school buildings, if

they are engaged in any employment or occupation in addition to their custodial positions.

Ensuring The Safety Of SchoolChildren And Staff

Custodians have been able to ignore the Board's clearly stated rule that custodial employees be fingerprinted prior to beginning their employment because the Board does not strictly enforce that rule when custodial employees are involved. Instead, as in other areas concerning custodians, the Board states the requirement, but institutes little in the way of controls to see that it is carried out, and imposes no penalty for noncompliance.

Given the current system, in which the custodian alone maintains employment records concerning his staff, and only the custodian knows exactly who is working for him at any given time, the Board is not even in a position to intelligently and easily check to see if the fingerprint rule is being ignored or not. Of course, if custodial employees become Board employees, the same rules concerning fingerprinting would automatically apply to them. If that change is not instituted, or until it is instituted, we make the following recommendations:

1. We recommend that the fingerprinting rule be strictly and equally enforced among all employees working in the schools -- Board employees and custodial employees alike. Fingerprint compliance has somewhat improved since June of this year as a result of our investigation in this area becoming known

to the Board. There is, however, nothing in the current system to prevent the lackadaisical attitude that we observed from taking hold again once the pressure created by the investigation is removed.

2. Custodial employees should be required to be printed, with the results known, prior to reporting for work. Since emergencies do arise, requiring the quick employment of additional staff, the Board should consider listing a pool of available applicants who have already cleared the criminal records check.

3. Failure to comply with the rule should result in a penalty to the custodian, presumably a financial penalty or a penalty that affects the custodian's rating. Each custodian should be able to anticipate many of his needs, such as the need for extra cleaners during school vacations. Thus, there should be sufficient time to have temporary employees fingerprinted, with the results known, before they start work.

4. The procedures for maintaining the invalid list should be improved and the list should be made available to all custodians. A first step in this direction would certainly be to include not just the social security number, but the name, of those unfit for employment. Custodial employee applications should, perhaps, include a space where custodians are required to note, first, that the employee has been fingerprinted and the results examined, and, second, that the custodian has checked and found that the employee's name is not on the invalid list.

5. The review process for custodial employees or applicants for those jobs who are found to have criminal records should be changed to conform to the same process used to consider the eligibility for employment of Board employees or applicants for Board positions.

6. Custodians should be required to keep accurate and complete personnel files on each employee, whether hired full time, part time, or on a temporary basis. Copies of those documents should also be on file with the Board, either at the borough office, or at some other location where they are easily accessible for inspection by supervisors or investigators. There should be a penalty for noncompliance with this requirement as well.

7. Custodial employees, like Board employees, should have a duty to report to the Board if they have been arrested and charged with a crime. Failure to report an arrest should result in a penalty imposed on the employee, including the possibility of termination.

Preventing And Deterring Payroll And Acquisitions Fraud By Requiring Proper Record Keeping And By Conducting Routine Fraud Audits

The fact that custodians are given exclusive control over large budgets, and are then not required to provide the most basic records concerning their expenses to the Board, encourages the sort of wrongdoing described in this report. That same lack of records then makes it extremely difficult to determine whether the custodian is stealing from his budget, and if so, to what extent. One of the greatest benefits to accrue to the Board if proper record keeping were required would be the ability to conduct meaningful fraud and compliance audits. This should both deter much wrongdoing related to the budget, and allow for the detection of fraud when it occurs. Our recommendations in this area are:

1. The budget for custodial services should not be under the exclusive control of the custodian. The simplest solution, in terms of fraud prevention, would be to make custodial employees Board employees. Alternatively, the Board should place the custodial budget under the control of the principal to use in consultation with the custodian. If custodians retain control over any part of the budget, then the recommendations that follow are in order.

2. Stop the practice of allowing custodians to commingle the money given to them by the Board with their personal funds and require them to maintain separate operating accounts for the school or Board building to which they are assigned.

3. The same record keeping requirements recommended above concerning custodial employees in the context of fingerprinting would be equally important in the context of fraud prevention.

4. Supervisors should be required to make more frequent unannounced visits to Board buildings to deter the sort of payroll abuse described in this report. Those visits should also occur at night and on weekends, both to prevent payroll fraud and

fraud associated with "user fees."

5. Regular fraud and compliance payroll audits should be instituted concerning both payroll and acquisition expenses.

6. Custodians should also be required to submit, on a regular basis, and not just when selected for audit, documents to support purchases they make. Those documents should include receipts and canceled checks.

Ensuring A Professional Relationship Between The Custodian And His Staff To Produce A Labor Force That Actually Works

The Board policy against nepotism is not difficult to understand. Common sense makes clear that the sort of supervision one imposes on a relative, or on someone hired in exchange for a favor, is not the same as that which is imposed upon an individual with whom one has only a working relationship. As demonstrated in this report, custodians have not been inclined to police themselves in this area, choosing instead to often obey the letter of the anti-nepotism law but to violate the spirit of that law. It is apparent that the Board has an important interest in its policy against nepotism, but that custodians have chosen not to adopt that interest as their own. Thus, we make the following recommendation:

The anti-nepotism policy and the reasons behind it should be clearly stated and addressed to the custodial system as a whole, meaning that custodians should be precluded from swapping jobs for their relatives. Also, custodians should be precluded from employing anyone with whom they have a personal or romantic relationship, such as a wife or girlfriend.

Conclusion

The current system of providing custodial services to schools operates on trust, and little more, to prevent fraud. Without seeing a single case in this report one has to question that approach considering what is at stake: the safety of schoolchildren and staff, the environment in which those individuals learn and work, and millions of scarce dollars. There are, of course, many custodians who have resisted the obvious temptation to dip into the large sums of money given to them by the Board, and they have earned our enormous respect, for there certainly is little to deter or prevent that very course of action.

If the cases set forth in this report establish anything, it is that the trust extended custodians by the Board has been misplaced often enough to demand greater controls over, and accountability from, custodians. While we recognize that the current system is fundamentally flawed, and that a fundamental restructuring is thus in order, we nonetheless recommend the specific changes set forth above as a first step towards improving custodial services in the city's schools.